1171

SUPREME COURT OF THE UNITED STATES.

No. 54.

MARTHA BRADSTREET, PLAINTIFF IN ERROR,

VERSUS

ANSON THOMAS.

ERROR TO THE DISTRICT COURT, U. S. FOR THE NORTHERN DISTRICT OF NEW YORK.

INDEX.

	Original.	Print.
Writ of error	1	3
Citation	3	4
Service of citation	4	4
Proceedings in District Court	6	5
Judgment	10	17
Bill of Exceptions	11	29
Schedule, No. 1,	17	31
Schedule, No. 2,	19	33
Schedule, No. 3,	21	35
Schedule, A,	22	37
Schedule, B,	23	38
Schedule, No. 5.	24	43
Schedule, D,	26	45
Schedule, No. 6,	27	53
Schedule, E,	31	56
Schedule, F,	32	65
Account between the estate of General Bradstreet and Philip Schuyler, Exr. &c.	36	68
Schedule, G,	37	69
Schedule, H,	38	81
Schedule, I,	42	82
Schedules, K and L,	43	83
Schedule, M,	44	85
Schedule, N,	45	86
Schedule, O,	46	87
Schedule, P,	48	92
Schedule, Q,	49	93
Schedule, R,	50	95
Schedule, S,	51	97
Schedule, T,	52	100
Schedule, U,	53	101
Assignment of errors	54	102

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America, to the judge of the district court of the United States, for the northern district of New York, *greeting:*

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said district court before you, or some of you, between Martha Bradstreet, demandant, and Anson Thomas, tenant, a manifest error hath happened, to the great damage of the said Martha Bradstreet, as by her complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the second Monday of January next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct error; what of right, and according to the law and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, this sixteenth day of November, in the year of our Lord one thousand eight hundred and thirty seven, and of the independence of the United States, the sixty-second.

FRED. J. BETTS,
Clerk of the Circuit Court of the United States, for the Southern District of New York, in the Second Circuit.

District court of the United States for the northern district of New York.

MARTHA BRADSTREET, Demandant,
vs.
ANSON THOMAS, Tenant.

UNITED STATES OF AMERICA,

Northern District of New York, ss.

I, Anson Little, clerk of the district court of the United States of America for the northern district of New York, do hereby certify to the Supreme Court of the United States, that the judgment record,

bill of exceptions, and assignment of errors, hereunto annexed, are true transcripts of their respective originals remaining on the files of my office in the above entitled cause.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the said district court, this twenty-eighth [L. S.] day of November, in the year of our Lord one thousand eight hundred and thirty-seven, and of the independence of the United States of America, the sixty-second.

ANSON LITTLE.

Allowed 16th day of November, 1837.

SMITH THOMPSON.

Received this 28th day of November, 1837.

ANSON LITTLE,
Clerk of the Northern District of New York.

By the honorable Smith Thompson, one of the judges of the circuit court of the United States, for the southern district of New York, in the second circuit, to Anson Thomas.

Whereas, Martha Bradstreet lately issued out of the Supreme Court of the United States, a writ of error directed to the judge of the district court of the United States for the northern district of New York, stating that, in the record and proceedings, as also in the rendition of the judgment of a plea in the said court before the judge thereof, between Martha Bradstreet, demandant, and Anson Thomas, tenant, a manifest error hath happened, to the great damage of the said Martha Bradstreet.

And whereas, for the correction of that error in due manner, the said writ has been issued, returnable at the next stated Supreme Court of the United States, at the city of Washington, on the second Monday of January next; you are, therefore, hereby cited to appear before the said Supreme Court, at the city of Washington, on the said second Monday of January next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of New York, in the southern district of New York, in the second circuit, the 16th day of November, in the year of our Lord one thousand eight hundred and thirty-seven, and of the independence of the United States, the sixty-second.

SMITH THOMPSON.

Supreme Court of the United States.

MARTHA BRADSTREET, Demandant,
vs.
ANSON THOMAS, Tenant.

Martha Bradstreet being duly sworn, deposes and says, that she

did, on the twenty-eighth day of November instant, personally serve on Anson Thomas, the above named tenant in error, the within written citation, by showing him the same, and at the same time delivering him a true copy thereof. And this deponent further says, that she did, at the same time, deliver to the said Anson Thomas a copy of the writ of error issued in this cause. And further says not.

MARTHA BRADSTREET.

Subscribed and sworn to, this 28th day of November, A. D. 1837, before me.

ANSON LITTLE,
Clerk and Commissioner to take affidavits in the District Court of the United States for the Northern District of New York.

Supreme Court of the United States.

MARTHA BRADSTREET, Demandant,
vs.
ANSON THOMAS, Tenant.

Citation.

JOHN L. TILLINGHAST,
Attorney.

Received this 28th day of November, 1837.

ANSON LITTLE,
Clerk of the Northern District of New York.

Filed, November 28, 1837.

District court of the United States of America for the northern district of New York.

Pleas before the judge of the district court of the United States of America, for the northern diatrict of New York, at the capitol, in the city of Albany, in the said district, of the term of January, in the year of our Lord one thousand eight hundred and twenty five.

Witness, the honorable Roger Skinner, judge of the said court.

RICHARD R. LANSING,
Clerk.

NORTHERN DISTRICT OF NEW YORK, *ss.*

Martha Bradstreet, who is an alien, and a subject of the king of the united kingdom of Great Britain and Ireland, by John L. Tillinghast, her attorney, demands against Anson Thomas, the one equal undivided fourth part of ten messuages, ten gardens, ten shops, ten coach-houses, ten stables, ten out-houses, ten ware-houses, and twenty acres of land, with the appurtenances, in the town of Utica, in the

county of Oneida, as her right and inheritance, by the writ of the President of the United States of America, of right; and, thereupon, the said Martha Bradstreet says, that she was seized of the said one equal undivided fourth part of the messuages, tenements, and land aforesaid, with the appurtenances, in her demesne, as of fee and right in the time of peace, to wit, within twenty-five years now last past, exclusive of the time, during which the said Martha Bradstreet was within the age of twenty-one years, or feme covert, by taking the esplees thereof to the value, &c. And the said Martha Bradstreet, who is an alien, and a subject of the king of the united kingdom of Great Britain and Ireland, demands against Anson Thomas, the one equal undivided fourth part of ten messuages, ten gardens, ten shops, ten coach-houses, ten stables, ten out-houses, ten ware-houses, and twenty acres of land, with the appurtenances, in the town of Utica, in the county of Oneida, as her right and inheritance, by the writ of the President of the United States of America, of right; and, thereupon, the said Martha Bradstreet says, that Philip Schuyler, deceased, the predecessor of the said Martha Bradstreet, was seized of the said equal undivided fourth part of the messuages, tenements, and land aforesaid, with the appurtenances, in his demesne, as of fee and right, in the time of peace, to wit, within twenty-five years now last past, exclusive of the time, during which the said Martha Bradstreet was within the age of twenty-one years, or feme covert, by taking the esplees thereof to the value, &c. and died thereof seized. And, thereupon, the right to the said one equal undivided fourth part, above demanded, of the said ten messuages, ten gardens, ten shops, ten coach-houses, ten stables, ten out-houses, ten ware-houses, and twenty acres of land, with the appurtenances, came from the said Philip Schuyler to the said Martha Bradstreet, who now demands the same. And the said Martha Bradstreet, who is an alien, and a subject of the king of the united kingdom of Great Britain and Ireland, demands against Anson Thomas, the one equal undivided fourth part of ten messuages, ten gardens, ten shops, ten coach-houses, ten stables, ten out-houses, ten ware-houses, and twenty acres of land, with the appurtenances, in the town of Utica, in the county of Oneida, as her right and inheritance, by the writ of the President of the United States of America, of right. And, thereupon, the said Martha Bradstreet says, that Edward Goold, deceased, the predecessor of the said Martha Bradstreet, was seized of the said one equal undivided fourth part of the messuages, tenements, and land aforesaid, with the appurtenances, in his demesne, as of fee and right, in the time of peace, to wit, within twenty-five years now last past, exclusive of the time during which the said Martha Bradstreet was within the age of twenty-one years, or feme covert, by taking the esplees thereof to the value, &c. and died thereof seized; and, thereupon, the right to the said one equal undivided fourth part, above demanded, of the said ten messuages, ten gardens, ten shops, ten coach-houses, ten stables, ten out-houses, ten ware-houses, and twenty acres of land, with the appurtenances, came from the said Edward Goold to the

said Martha Bradstreet, who now demands the same. And, that such is her right, she offers, &c.

And the said Anson Thomas, by Charles P. Kirkland, his attorney, comes and defends the right of the said Martha Bradstreet, when, &c. and prays leave to imparle until the second Tuesday of May next, and he hath it, &c. saving all objections, as well to the jurisdiction of the court, as to the writ and count; the same day is given to the said Martha Bradstreet, here, &c.

At which day, to wit, the second Tuesday of May, in the year of our Lord one thousand eight hundred and twenty-five, before the said judge of the said district court, at the capitol in the city of Albany, come the parties aforesaid, by their attorneys aforesaid; and the said Anson Thomas demands a view of the tenements aforesaid, with the appurtenances, and he hath, &c. A day is given to the said parties, at the town of Utica, until the last Tuesday of August next; and in the meantime, &c.

And now at this day, to wit, the last Tuesday of January, in the year of our Lord one thousand eight hundred and twenty-six, until which day the process aforesaid, was, pursuant to the statute of the said United States, in such case made and provided, continued, because of the death of the said Roger Skinner, late judge of the said district court, as aforesaid, before the honorable Alfred Conkling, now judge of the said district court, appointed in the place of the said Roger Skinner, deceased, come the parties aforesaid, by their attorneys aforesaid; and the marshal of the said northern district, to wit, John W. Livingston, Esq. returns to the said writ, that neither the said Anson Thomas, nor any one for him, came to take the view of the tenements aforesaid, with the appurtenances.

And, thereupon, the said Anson Thomas again demands a view of the tenements aforesaid, with the appurtenances, and he hath it, &c. A day is given to the parties aforesaid, here, until the second Tuesday of May next; and, as before, in the meantime, &c.

At which day, before the said Alfred Conkling, judge of the said district court, as aforesaid, at the capitol in the city of Albany, in the said northern district, come the parties aforesaid, by their attorneys aforesaid, and the marshal returns to the said last mentioned writ, that the same came to him so late, that he could not execute it according to the exigency thereof. And, thereupon, as before, the said Anson Thomas again demands a view of the tenements aforesaid, with the appurtenances, and he hath it, &c. A day is given to the parties aforesaid, at the town of Utica aforesaid, until the last Tuesday of August next; and as oft-times before, in the meantime, &c.

At which day, before the judge of the district court aforesaid, at the academy, in the town of Utica aforesaid, come the parties aforesaid, by their attorneys aforesaid, and the marshal returns to the said last mentioned writ, that neither the said Anson Thomas, nor any one for him, came to take the view of the tenements aforesaid, with the appurtenances.

And, hereupon, the said Anson Thomas, by Charles P. Kirkland, his attorney, comes and defends the right of the said Martha Brad-

street, and the seisin of the said Martha Bradstreet, in the count of the said Martha Bradstreet, *first* above pleaded, when, &c. and the whole, &c. and whatsoever, &c. and chiefly of the messuages and tenements aforesaid, with the appurtenances, in the said first count mentioned, as of *fee and right, &c.* and he puts himself on the grand assize of *the United States of America*; and he prays a recognition to be made, whether he, the said Anson, has a greater title to hold the messuages and tenements aforesaid, with the appurtenances to him and his heirs, as tenants thereof, as he now holds the same; or whether the said Martha Bradstreet has title to hold the same messuages and tenements, with the appurtenances, as in and by the said first count, she has above demanded the same, &c.

And the said Anson Thomas, tenders here into court two dollars to the use of the United States of America, &c. for that, to wit, that it may be inquired, &c. of the time, &c. and he therefore prays that it may be inquired by the assize, whether the said Martha Bradstreet was seised of the messuages, and tenements aforesaid, with the appurtenances, in the said first count mentioned, in her demesne, as of fee, in the time, &c. as the said Martha Bradstreet, in her said first count, hath above alleged. And the said Martha Bradstreet, doth the like, &c.

And as to the *count* of the said Martha Bradstreet, by her *secondly* above pleaded, the said Anson Thomas, by Charles P. Kirkland, his said attorney, comes and defends the right, &c. when, &c. and says that the said count, so, by the said Martha Bradstreet, *secondly* above pleaded, and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in the law, for the said Martha Bradstreet, to have or maintain her aforesaid action thereof, against him, the said Anson Thomas, and that the said Anson Thomas is not bound by the law of the land to answer the same; and this he is ready to verify; wherefore, for want of sufficiency in said *second count*, in this behalf, the said Anson Thomas prays judgment, and that the said Martha Bradstreet, as to the said *second count*, may be barred from having or maintaining her aforesaid action thereof against him, &c. and the said Anson Thomas, according to the form of the statute, in such case made and provided, states and shows to the court here, the following causes of demurrer to the said count, by the said Martha Bradstreet, secondly above pleaded; that is to say, that it does not appear in or by the said count, how or in what manner, the said Martha Bradstreet is heir to Philip Schuyler, in the said count named; and that it doth appear, in or by the said count, that the said Martha Bradstreet is heir to the said Philip Schuyler; and that it doth not appear in or by the said count, in what manner, the right to the messuages and tenements, with the appurtenances, in the said count described, came from the said Philip Schuyler to the said Martha Bradstreet; and for that the said count is in other respects defective, uncertain, insufficient, and informal.

And as to the count of the said Martha Bradstreet, by her *thirdly* above pleaded, the said Anson Thomas by Charles P. Kirkland, his said attorney, comes and defends the right, &c. when, &c. and says that the said count, so by the said Martha Bradstreet *thirdly* above

pleaded, and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in the law, for the said Martha Bradstreet, to have or maintain her aforesaid action thereof against him, the said Anson Thomas, and that the said Anson Thomas is not bound by the law of the land to answer the same; and this he is ready to verify; wherefore, for want of sufficiency in said *third count*, in this behalf, the said Anson Thomas prays judgment; and that the said Martha Bradstreet, as to the said *third count*, may be barred from having or maintaining her aforesaid action against him, &c.

And the said Anson Thomas, according to the form of the statute, in such case made and provided, states and shows to the court here, the following causes of demurrer to the said *count*, by the said Martha Bradstreet, thirdly above pleaded: that is to say, that it doth appear, in or by the said count, how or in what manner, the said Martha Bradstreet is heir to Edward Goold, in the said count named; and that it doth not appear, in or by the said count, that the said Martha Bradstreet is heir to the said Edward Goold; and that it doth appear, in or by the said count, in what manner the right to the said messuages and tenements, with the appurtenances, in the said count described, came from the same Edward Goold to the said Martha Bradstreet, and for that, the said count is in other respects defective, uncertain, insufficient, and informal.

Therefore, as to try the said mise above, in form aforesaid, joined between the said Martha Bradstreet, demandant, and the said Anson Thomas, tenant, the marshal is commanded, that by good summoners, he summon four good and lawful men of his district, that they be before the said judge of the district court aforesaid, at the capitol in the city of Albany aforesaid, on the third Tuesday of January next, to make election of the grand assize aforesaid; the same day is given to the parties aforesaid, there, &c.

And as to the demurrers in law of the said Anson Thomas, by him above pleaded, the said Martha Bradstreet prays leave to imparle thereto, until the third Tuesday of January next, at the capitol in the city of Albany aforesaid, before the judge of the district court aforesaid, and she hath it, &c. the same day is given to the said Anson Thomas, there, &c.

At which day, before the judge of the district court aforesaid, at the capitol in the city of Albany aforesaid, come the parties aforesaid, by their attorneys aforesaid; and as to the trial of the said mise, above in form aforesaid, joined between the said Martha Bradstreet, demandant, and the said Anson Thomas, tenant, the marshal has not sent his writ thereof; therefore, as before the marshal is commanded, that by good summoners, he summon four good and lawful men of his district, that they be before the said judge of the district court aforesaid, at the capitol in the city of Albany aforesaid, on the second Tuesday in May next, to make the election of the grand assize aforesaid; the same day is given to the parties aforesaid, there, &c. And as to the demurrers in law of the said Anson Thomas, the said demandant, Martha Bradstreet, who is an alien, and a subject of the

king of the united kingdom of Great Britain and Ireland, says, that the said counts of her, the said Martha Bradstreet, by her secondly and thirdly above pleaded, and the matters therein contained, in manner and form as the same are above stated and set forth, are sufficient in law for her, the said Martha Bradstreet, to have and maintain her aforesaid action thereof, against the said tenant, Anson Thomas, who is a citizen of the State of New York, residing within the northern district of New York; and the said Martha Bradstreet is ready to verify and prove the same, as the court here shall direct and award. Wherefore, inasmuch as the said tenant, Anson Thomas, hath not answered the said second and third counts, nor hitherto, in any manner, denied the same, the said Martha Bradstreet prays judgment, and her seisin against the said Anson, Thomas of the said undivided fourth part of the said messuages, gardens, shops, coach-houses, stables, out-houses, ware-houses, and land, with the appurtenances aforesaid, in the said second and third counts of her, the said Martha Bradstreet, secondly and thirdly above pleaded, mentioned, to hold to the said Martha Bradstreet, and her heirs, quit of the said Anson Thomas and his heirs forever.

And as to the matter in law, whereof, as well, the said Martha Bradstreet, demandant, as the said Anson Thomas, tenant, have put themselves upon the judgment of the court here, a day is given, as well to the said Martha Bradstreet as to the said Anson Thomas, before the said judge of the district court aforesaid, until the second Tuesday of May next, at the capitol in the city of Albany aforesaid, to hear judgment of and upon the premises, for that the said district court here is not yet advised thereof, &c.

At which day, before the judge of the district court aforesaid, at the capitol in the city of Albany, come the parties aforesaid, by their attorneys aforesaid; and as to the trial of the said mise, above in the form aforesaid, joined between the said Martha Bradstreet, demandant, and the said Anson Thomas, tenant, the marshal has not sent his writ thereof; therefore, as before the marshal is commanded, that by good summoners he summon four good and lawful men of his district, that they be before the said judge of the district court aforesaid, at the academy in the town of Utica, in the said district, on the last Tuesday in August next, to make the election of the grand assize aforesaid; the same day is given to the parties aforesaid, there, &c.

And as to the matter in law, whereof, as well the said Martha Bradstreet, demandant, as the said Anson Thomas, tenant, have put themselves upon the judgment of the court here, a day is given, as well to the said Martha Bradstreet as to the said Anson Thomas, before the said judge of the said district court, until the last Tuesday of August next, at the academy in the town of Utica aforesaid, to hear judgment of and upon the premises, for that the said district court here is not yet advised thereof, &c.

At which day, before the judge of the district court aforesaid, at the academy in the town of Utica aforesaid, come the parties aforesaid, by their attorneys aforesaid; and as to the trial of the said mise, in form aforesaid joined, between the said Martha Bradstreet, demand-

ant, and the said Anson Thomas, tenant, the marshal has not sent his writ thereof; therefore, as before, the marshal is commanded, that by good summoners, he summon four good and lawful men of his district, that they be, before the said judge of the district court aforesaid, at the capitol in the city of Albany, on the third Tuesday of January next, to make the election of the grand assize aforesaid; the same day is given to the parties aforesaid, there, &c.

And as the matter in law, whereof as well as the said Martha Bradstreet, demandant, as the said Anson Thomas, tenant, have put themselves upon the judgment of the court, for that it appears to the said judge of the said district court here, that the said counts of her the said Martha Bradstreet, by her secondly and thirdly above pleaded, and the matters therein contained are not sufficient in law for her the said Martha Bradstreet, to have and maintain her aforesaid action thereof, against the said Anson Thomas:

Therefore, it is considered, that, as to her said counts by her secondly and thirdly above pleaded, the said Martha Bradstreet take nothing by her said writ, but that she and her pledges to prosecute be in mercy, &c. and that the said Anson Thomas do go thereof without day, &c. and it is further considered by the said district court, before the said judge thereof now here, that the said Anson Thomas do recover against the said Martha Bradstreet, his costs upon his said demurrers in the law to the said counts of the said Martha Bradstreet, by her secondly and thirdly above pleaded as aforesaid, to be taxed.

At which day, to wit, the third Tuesday of January, in the year of our Lord one thousand eight hundred and twenty-eight, before the judge of the district court aforesaid, at the capitol in the city of Albany, come as well the said Martha Bradstreet, demandant, as the said Anson Thomas, tenant, by their attorneys aforesaid, and the marshall, to wit, John W. Livingston, Esq. now returns that he had caused to be summoned William Alverson, Hallenbeck Stafford, James Hinman, and George B. Lisher, four good and lawful men of his district, by good summoners, to be here on the third Tuesday of January aforesaid, to do as the same writ commands and requires, and that the said summoners are and each of them is mainprized by John Doe and Richard Roe; whereupon the said William Alverson, Hallenbeck Stafford, James Hinman, and George B. Lisher, being called, in their proper persons also come, and the said Martha Bradstreet challenges the array of the panel to the said writ annexed, because she says that the electors aforesaid, in the panel aforesaid named, are not duly qualified as electors of the grand assize, nor are they indifferent between the parties aforesaid: and because the said Anson Thomas cannot deny the challenge aforesaid, by the said Martha Bradstreet as aforesaid made, the said Martha Bradstreet prays that the panel aforesaid so returned as aforesaid, may be quashed; and hereupon the premises aforesaid being seen, and by the court here before the aforesaid judge thereof, being fully understood, it is considered that the panel of the electors aforesaid, so returned as aforesaid, be quashed, &c. and with the assent of the said Anson Thomas.

And upon this the said Martha Bradstreet prays the writ of the President of the United States of America to the marshal of the district aforesaid to be directed, to summon anew, by good summoners, four good and lawful men of his district, that they be here before the judge of the district court aforesaid, on the twenty-first day of this instant month of January, to make election of the grand assize aforesaid, &c. and it is granted her, &c. and with the assent of the said Anson Thomas, &c.

Therefore, the marshal is commanded, that by good summoners he summon four good and lawful men of his district, that they be here before the judge of the district court aforesaid, on the twenty-first day of this instant month of January, to make the election of the grand assize aforesaid; the same day is given as well to the said Martha Bradstreet as to the said Anson Thomas, here, &c.

At which day, before the judge of the district court aforesaid, at the capitol in the city of Albany, come as well the said Martha Bradstreet as thes aid Anson Thomas, by their attorneys aforesaid, and the marshal to wit, John W. Livington, Esq. now returns that he had caused to be summoned Charles D. Cooper, Joseph T. Rice, Nathaniel S. Skinner, and Henry Newman, four good and lawful men of his district, by good summoners, to be here on the twenty-first day of this instant month of January, to do as the same writ commands and requires, and that the said summoners are and each of them is mainprized by John Doe and Richard Roe, whereupon the said Charles D. Cooper, Joseph T. Rice, Nathaniel S. Skinner, and Henry Newman, being called, in their proper persons also come, and being severally sworn, in the presence of the parties, lawfully and truly choose, in the presence of the parties, in addition to themselves, twenty other good and lawful men of the said district, to wit, John J. Godfrey, Townsend McCoun, Platt Titus, Gurdon Corning, Samuel S. Fowler, William Humphrey, Joseph Fry, John T. Norton, Samuel Payn, John M. Cuyler, Ralph Pratt, David Newlands, Stephen Warren, William Pierce, Chauncey Humphrey, John Carpenter, junior, John Van Zandt, Daniel Pohlman, Robert W. Dunbar, Edward Dunn, who best know and will declare the truth between the parties, and who neither are of kin to the said Martha Bradstreet nor to the said Anson Thomas, to make recognition of the grand assize aforesaid.

And upon this the said Martha Bradstreet prays the writ of the President of the United States of America, to the marshal of the district aforesaid, to be directed to cause to come before the judge of the district court aforesaid, at the capitol in the city of Albany, on the second Tuesday of May next, the recognitors above named, to make recognition of the grand assize aforesaid.

But because it is thought proper by the said court here before the aforesaid judge thereof, to suspend the trial of this cause until the decision of the Supreme Court of the United States shall have been given upon the writ of error, brought on behalf of the said Martha Bradstreet, upon the judgment heretofore rendered in this court in the cause of James Jackson, on the demise of Martha Bradstreet, against Henry Huntington; therefore it is considered that the said prayer of

the said Martha Bradstreet, for the award of the writ aforesaid, be denied; and that in the mean time the trial of this cause be suspended, without prejudice either to the said Martha Bradstreet or to the said Anson Thomas, until a decision shall have been given by the Supreme Court aforesaid, upon the writ of error aforesaid.

And now, at this day, to wit, the second Tuesday of May, in the year of our Lord one thousand eight hundred and thirty-one, before the said judge of the district court aforesaid, at the capitol in the city of Albany aforesaid, come as well the said Martha Bradstreet in her proper person, as the said Anson Thomas by his attorney aforesaid; and the said Martha Bradstreet in her proper person, because the name of John L. Tillinghast, her former attorney, has been stricken from the rolls of said district court by order of the judge thereof, now here, for that the Supreme Court of the United States have given their decision upon the writ of error above mentioned, prays the writ of the President of the United States of America to the marshal of the said district to be directed, to cause to come before the judge of the district court aforesaid, at the academy in the town of Utica aforesaid, on the last Tuesday of August next, the recognitors above named, to make recognition of the grand assize aforesaid: and because the Supreme Court of the United States have given their decision upon the writ of error above mentioned, it is granted her, &c.

Therefore the marshal is commanded that he cause to come bfore the judge of the district court aforesaid, at the academy in the town of Utica, on the last Tuesday of August next, the recognitors above named, to make recognition of the grand assize aforesaid; the same day is given as well to the said Martha Bradstreet as to the said Anson Thomas, there, &c.

At which day, before the judge of the said district court at the academy in the town of Utica aforesaid, come as well the said Martha Bradstreet in her proper person, as the said Anson Thomas by his attorney aforesaid, and the recognitors of the grand assize whereof mention is above made, being called come; and hereupon the said Anson Thomas prays that the suit of the said Martha Bradstreet in in this behalf, against him the said Anson Thomas, may be dismissed for want of jurisdiction in the said district court to entertain and try the same; for that there is no averment of the pecuniary value of the lands demanded by the said demandant, Martha Bradstreet, in the said courts filed and exhibited by the said demandant, Martha Bradstreet, against the said tenant Anson Thomas; and upon this the matter aforesaid alleged by the said Anson Thomas as aforesaid, in bar of the jurisdiction of the district court aforesaid being seen, and by the said judge here fully understood, it seems to the said judge here, that the said district court has not jurisdiction of the suit aforesaid, for that the said count contains no allegations of the value of the matter in dispute, and it does not therefore appear by the pleadings in this cause that the same is within the jurisdiction of this court; therefore it is considered, ordered, and adjudged by the said district court now here before the aforesaid judge thereof, that the said suit

of the said demandant, Martha Bradstreet, against the said tenant, Anson Thomas, be, and the same is hereby dismissed for want of jurisdiction, &c.

And now, at this day, to wit, the second Tuesday of May, in the year of our Lord one thousand eight hundred and thirty-three, before the judge of the district court aforesaid, at the city hall in the city of Albany aforesaid, come as well the said Martha Bradstreet in her proper person, as the said Anson Thomas by his attorney aforesaid; and the said Martha Bradstreet now brings here into the said district court, the certain peremptory writ of the President of the United States of America, of mandamus, issued out of the said Supreme Court of the United States of America, and under the seal thereof, directed to the judge of the district court aforesaid; and he is thereby commanded and enjoined amongst other things, that immediately upon the receipt of that writ, and without delay, he re-instate and proceed to try and adjudge according to the law and right of the case, the said writ of right and the mise therein joined, lately pending in this said court, between the said Martha Bradstreet, demandant, and the said Anson Thomas, tenant, therein above named, so that complaint be not again made to the said Supreme Court.

Whereupon it is ordered by the said district court before the aforesaid judge thereof now here, that the said peremptory writ of mandamus be filed, and that the said writ of right and the mise therein joined, lately pending in the said district court between the said Martha Bradstreet, demandant, and the said Anson Thomas, tenant, be, and the same is hereby re-instated.

And as before, the marshal is commanded that he cause to come before the judge of the district court aforesaid, at the court room in the city of Utica, on the last Tuesday of August next, the recognitors above named, to make recognition of the grand assize aforesaid; the same day is given as well to the said Martha Bradstreet as to the said Anson Thomas, there, &c.

And hereupon the said Anson Thomas puts in his place Joseph Kirkland, his attorney, in the stead of Charles P. Kirkland, his former attorney, at the suit of the said Martha Bradstreet, in the plea aforesaid.

At which day, before the judge of the district court aforesaid, at the court room in the city of Utica aforesaid, come as well the said Martha Bradstreet in her proper person, as the said Anson Thomas by his attorney aforesaid, and the marshal has not sent his writ thereof.

Therefore, as before, the marshal is commanded that he cause to come before the said judge of the district court sforesaid, at the city hall in the city of Albany, on the third Tuesday of January next, the recognitors above named, to make recognition of the grand assize aforesaid; the same day is given to the parties aforesaid, there, &c.

At which day, before the said judge of the said district court aforesaid, at the city hall in the city of Albany aforesaid, come as well the said Martha Bradstreet in her proper person, as the said Anson Tho-

mas by his attorney aforesaid, and the recognitors of the grand assize, whereof mention is above made, being called, certain nine of them, to wit, Nathaniel S. Skinner, Joseph T. Rice, John J. Godfrey, Gurdon Corning, Samuel S. Fowler, Joseph Fry, Samuel Payn, Chauncey Humphrey, and Daniel Pohlman, come; and because a sufficient number of the recognitors elected and chosen to make the recognition of the grand assize aforesaid, do not remain upon the panel aforesaid, the said Martha Bradstreet prays that an election may be made to supply the vacancies occasioned by the deaths, removals, and excuses of any of the recognitors above elected as aforesaid; and it is granted to her, &c. and with the assent of the said Anson Thomas; and for that two only, to wit, the said Nathaniel S. Skinner, and the said Joseph T. Rice, of the electors above summoned as aforesaid, remain to make that election, the marshal is commanded that by good summoners he summon two other good and lawful men of his district, that they, together with the said Nathaniel S. Skinner and Joseph T. Rice, be here before the judge of the district court aforesaid, on the third day of February next, to make that election of the grand assize as last aforesaid; the same day is given to the parties aforesaid, here, &c.

At which day, before the judge of the district court aforesaid, come here at the city hall in the city of Albany aforesaid, as well the said Martha Bradstreet in her proper person, as the said Anson Thomas by his attorney aforesaid, and the marshal, to wit, John W. Livingston, Esq. now returns that by good summoners he had caused to be summoned Edward Archer and Henry Campbell, two good and lawful men of his district, that they, together with the said Nathaniel S. Skinner and Joseph T. Rice, be here on the said third day of February to do as the said writ commands and requires; and that the said summoners are and each of them is mainprized by John Doe and Richard Roe.

Whereupon the said Edward Archer and Henry Campbell, together with the said Nathaniel S. Skinner and Joseph T. Rice, four good and lawful men of the district aforesaid being called, in their proper persons come, and the said Edward Archer and Henry Campbell, being now severally sworn in the presence of the parties, they, together with the said Nathaniel S. Skinner and Joseph T. Rice, lawfully and truly choose in the presence of the parties, in addition to themselves and the said John J. Godfrey, Gurdon Corning, Samuel S. Fowler, Joseph Fry, Samuel Payn, Chauncey Humphrey, and Daniel Pohlman, thirteen other good and lawful men of the said district, to wit, Daniel D. Winne, Abraham Van Allen, Daniel Davis, Peleg Noyes, jr. Robert L. Noyes, Leonard Shaw, Wendell Bender, Isaac H. Bogert, Edward R. Satterlee, William Boyd, Elias Mather, Henry L. Webb, and Stephen Mesick, good and lawful men of the district aforesaid, who best know and will declare the truth between the parties, and who neither are of kin to the said Martha Bradstreet or to the said Anson Thomas, to make recognition of the grand assize aforesaid.

Therefore the marshal is commanded that he cause the said Nathaniel S. Skinner, Joseph T. Rice, Edward Archer, Henry Campbell, Daniel D. Winne, Adam Van Allen, Daniel Davis, Peleg Noyes, jr. Robert L. Noyes, Leonard Shaw, Wendell Bender, Isaac H. Bogert, Edward R. Satterlee, William Boyd, Elias Mather, Henry L. Webb, Stephen Mesick, John J. Godfrey, Gurdon Corning, Samuel S. Fowler, Joseph Fry, Samuel Payn, Chauncey Humphrey, and Daniel Pohlman, to come here on the second Tuesday of May next, to make recognition of the grand assize aforesaid; the same day is given to the parties aforesaid, here, &c.

At which day, before the judge of the district court aforesaid, at the city hall in the city of Albany aforesaid, come as well the said Martha Bradstreet in her proper person, as the said Anson Thomas by his attorney aforesaid, and the marshal has not sent the writ.

Therefore, as before, the marshal is commanded, that he cause to come before the judge of the district court aforesaid, at the court room in the city of Utica, on the last Tuesday of August next, the recognitors last above named, to make recognition of the grand assize aforesaid; the same day is given to the parties aforesaid, there, &c.

At which day, before the judge of the district court aforesaid, at the court room in the city of Utica aforesaid, come as well the said Martha Bradstreet in her proper person, as the said Anson Thomas by his attorney aforesaid, and the marshal has not sent the writ.

Therefore, as before, the marshal is commanded that he cause to come before the judge of the district court aforesaid, at the city hall in the city of Albany, on the third Tuesday of January next, the recognitors last above named, to make recognition of the grand assize aforesaid; the same day is given to the parties aforesaid, there, &c.

At which day, before the judge of the district court aforesaid, at the city-hall in the city of Albany aforesaid, come as well the said Martha Bradstreet in her proper person, as the said Anson Thomas by his attorney aforesaid, and the marshal has not sent the writ. Therefore as before, the marshal is commanded that he cause to come here before the judge of the district court aforesaid, at the city-hall in the city of Albany aforesaid, on the second Tuesday of May next, the recognitors last above named to make recognition of the grand Assise aforesaid; the same day is given to the parties aforesaid, here, &c.

At which day, before the judge of the district court aforesaid, at the city hall in the city of Albany aforesaid, come as well the said Martha Bradstreet in her proper person, as the said Anson Thomas by his attorney aforesaid, and the marshal has not sent the writ. Therefore as before, the marshal is commanded, that he cause to come before the judge of the district court aforesaid, at the court room in the city of Utica, on the last Tuesday of August next, the recognitors last above named to make recognition of the grand assize aforesaid; the same day is given to the parties aforesaid, there, &c.

At which day, before the judge of the district court aforesaid, at

the court room in the city of Utica aforesaid, come as well the said Martha Bradstreet in her proper person, as the said Anson Thomas by his attorney aforesaid, and the marshal has not sent the writ. Therefore as before, the marshal is commanded that he cause to come before the judge of the district court aforesaid, at the city hall in the city of Albany, on the third Tuesday of January next, the recognitors last above named to make recognition of the grand assize aforesaid; the same day is given to the parties aforesaid, there, &c.

At which day before the judge of the district court aforesaid, at the city hall in the city of Albany aforesaid, come as well the said Martha Bradstreet in her proper person, as the said Anson Thomas by his attorney aforesaid, and the recognitors of the grand assize, whereof mention is last made above, being called also come, and certain sixteen of them, to wit, Joseph T. Rice, Edward Archer, Daniel D. Winne, Adam Van Allen, Daniel Davis, Peleg Noyes, Jun. Leonard Shaw, Wendell Bender, Edward R. Satterlee, William Boyd, Elias Mather, Stephen Mesick, John J. Godfrey, Gurdon Corning, Joseph Fry, and Daniel Pohlman, being elected, tried and sworn, upon their oath say, that the said Anson Thomas has a greater title to hold the messuages and tenements aforesaid, with the appurtenances to him and his heirs as tenants thereof, as he now holds the same, than the said Martha Bradstreet to hold the same, as she above demands the same:

Therefore it is considered, that the said Martha Bradstreet take nothing by her said writ, but be in mercy for her false claim thereof, and that the said Anson Thomas go thereof without day, &c. And that he the said Anson Thomas hold the tenements aforesaid, with the appurtenances to him and his heirs, quit of the said Martha Bradstreet and her heirs, for ever.

Judgment signed this tenth day of November, in the year of our Lord thousand eight hundred and thirty-seven.

ANSON LITTLE, *Cl'k.*

(ENDORSED.)

DISTRICT COURT, U. S. N. D. N. Y.

Anson Thomas, tenant ads. Martha Bradstreet demandant—judgment roll—Joseph Kirkland, Att'y. for tenant. Filed Nov. 10, 1837.

DISTRICT COURT OF THE UNITED STATES,
For the Northern District of New York.

MARTHA BRADSTREET, Demandant,
vs.
ANSON THOMAS, Tenant.
} *Bill of Exceptions.*

Which said mise, in form aforesaid joined, between the said tenant and the said demandant, afterwards, to wit, and at the stated January session of the district court of the United States of America, for

the northern district of New York, held at the city of Albany, in and for the said northern district of New York, on the nineteenth day of January, in the year of our Lord one thousand eight hundred and thirty-six, before Alfred Conkling, Esquire, judge of the said district court, came on to be tried by the grand assize for that purpose duly elected; at which day came there as well the said demandant in her proper person, as the said Anson Thomas, by his attorney aforesaid; and the recognitors aforesaid, chosen to make recognition of the grand assize between the said parties, being called, sixteen of them also came and were duly sworn to say the truth whether the said Anson Thomas hath more mere right to hold the tenements which the said Martha Bradstreet demands against him by her writ of right, or the said Martha Bradstreet to have them as she demands the same.

And upon the trial of that mise, the counsel for the said tenant to maintain and prove the said mise, on his part, produced and offered in evidence an exemplification of the record of an instrument purporting to be a deed of conveyance from Agatha Evans, of the city of New York and State aforesaid, widow, and Sir Charles Gould of the city of Westminster, in the kingdom of Great Britain, by Edward Gould of the city of New York, merchant, his attorney, to John D. Petrie, for part of lot number ninety, in a tract of land commonly called Cosby's Manor, and bearing date the twenty-second day of August in the year 1793: But to the reading of the same in evidence the said demandant then and there objected on the ground of the insufficiency of the certificate of the proof of the execution of the said instrument by the alleged grantors therein named; but the said district judge overruled the said objection, and decided that the said exemplification should be read in evidence; to which said decision of the said district judge the said demandant did then and there except.

And the said demandant did then and there further object to the reading of the same in evidence until a power of attorney from the said Sir Charles Gould to the said Edward Goold make such conveyance should be produced; but the said district judge overruled the said objection, and decided that the same should be read in evidence; to which said last mentioned decision of the said district judge, the said demandant did then and there except.

And thereupon the said instrument was accordingly read in evidence. A copy whereof, and of the said certificate of the proof thereof are contained in the schedule hereunto annexed, marked (No. 1.)

And the said counsel for the said tenant, Anson Thomas, further to maintain and prove the said mise on his part produced and read in evidence an exemplification of a deed of bargain and sale from the said John D. Petrie and Gertrude his wife, to Alexander Cairns for part of the said lot number ninety in Cosby's Manor aforesaid, with a covenant to warrant and defend the same, and which deed bore date the fifteenth day of June, in the year of our Lord one thousand eight hundred and two.

And the said counsel for the said tenant, Anson Thomas, further to maintain and prove the said mise on his part produced and read in evidence an exemplification of a deed of bargain and sale, bearing

date the twenty-fifth day of August in the year of our Lord one thousand eight hundred and four, from Alexander Cairns and Margaret his wife to Solomon Wolcott for part of said lot number ninety in Cosby's Manor aforesaid, with a covenant of warranty.

And the said counsel for the said tenant, Anson Thomas, further to maintain and prove the said mise on his part, produced and offered in evidence an exemplification of the record of an instrument purporting to be a deed of conveyance, bearing date the 10th of July, in the year 1792, from Charles John Evans of the city of New York, in the State of New York, gentleman, and Agatha his wife, and Sir Charles Gould of the city of Westminster in the kingdom of Great Britain by Edward Goold of the city of New-York and State aforesaid, merchant, his attorney, to John Post for part of lot number ninety-five in Cosby's Manor aforesaid; but to the reading of the same in evidence the said demandant then and there objected on the ground of the insufficiency of the certificate of the acknowledgement of the execution of the said instrument by the alleged grantors therein named; but the said district judge overruled the said objection and decided that the same exemplification should be read in evidence; to which said last mentioned decision of the said district judge, the said demandant did then and there except.

And the said demandant did also then and there further object to the reading of the same in evidence, until a power of attorney from the said Sir Charles Gould to the said Edward Goold, to make such conveyance, should be produced; but the said district judge overruled the said objection, and decided that the same should be read in evidence; to which said last mentioned decision of the said district judge, the said demandant did then and there except.

And thereupon the said instrument was accordingly read in evidence, a copy of which said deed of conveyance and of the said certificate of the proof thereof, is contained in the schedule hereunto annexed, marked (No. 2.)

And the said counsel for the said tenant, Anson Thomas, further to maintain and prove the said mise on his part, produced and offered in evidence an exemplification of the record of an instrument purporting to be a deed of conveyance, bearing date the 25th July, in the year 1791, from the said Charles John Evans and Agatha his wife, and the said Sir Charles Gould by the said Edward Goold his attorney, to Augustus Corey and Thomas Corey, for part of said lot number ninety-five in Cosby's Manor aforesaid; but to the reading of the same in evidence the said demandant then and there objected on the ground of the insufficiency of the certificate of the acknowledgement of the execution of the said instrument by the alleged grantors therein named; but the said district judge overruled the said objection, and decided that the said exemplification should be read in evidence: to which said last mentioned decision of the said district judge, the said demandant did then and there except.

And the said demandant did also then and there further object to the reading of the said exemplification in evidence: until a power of attorney from the said Sir Charles Gould to the said Edward Goold to

make such conveyance should be produced; but the said district judge overruled said objection and decided that the same exemplification should be read in evidence: to which said last mentioned decision of the said district judge, the said demandant did then and there except.

And thereupon the said instrument was accordingly read in evidence. A copy of which said deed of conveyance, and of the said certificate of the proof thereof, is contained in the schedule hereunto annexed, marked (No. 3.)

And the said counsel for the said tenant further to maintain and prove the said mise on his part, called as a witness one William Alverson, who being sworn on his *voir dire*, testified; that in right of his wife, who was the daughter of Stephen Potter, he became possessed of a part of the lot number ninety-seven in Cosby's Manor aforesaid; that he had sold the same *with warranty;* that he had subsequently lived on another parcel of said lot No. 97, never having title or any deed thereof from his brother-in-law, and had built a house thereon; and that the same was levied upon and sold by virtue of an execution issued upon a judgment rendered against him, and he was thereupon turned out of possession; that he knew the demandant claimed the same *interest* and *proportion*, one equal undivided fourth part in said lot number ninety-seven, that she did in the premises in question in this suit. And the said demandant thereupon objected to the competency of the said William Alverson as a witness in this cause, on the ground that he had shown himself interested to testify in favor of the party calling him, and against her the said demandant; but the said district judge overruled the said objection and decided that the said William Alverson was a competent witness, and directed that he should be sworn in chief; to which said last mentioned decision and direction of the said district judge, the said demandant did then and there except.

And the said William Alverson was thereupon sworn in chief, and testified: that he is sixty-six years old; has resided at Utica since the year 1789; knew John D. Petrie, who claimed to own land on lot No. ninety in Cosby's Manor aforesaid, in 1792 or 1793; witness built a barn for him on the land in the year 1793; Petrie made improvements up from the river, not a great way from his house; the barn was on the south side of the road; witness knew that Cairns lived on this farm of Petrie's; as Petrie left, Cairns came in; witness thinks Wolcott came on after Cairns; Wolcott resided on the farm, and died there, from six to twelve years since. And they have been constantly occupied since.

The said counsel for the said tenant then put the question to the said witness: under what title has it since been held? To which said question the said demandant then and there objected; but the said district judge overruled the said objection, and decided that the said question should be put to the witness: to which said last mentioned decision of the said district judge, the said demandant did then and there except.

And the said question being thereupon again put to the said witness,

he answered, it has been held under Petrie to Cairns, and so down to others.

The said witness further testified that he knew John Post in the year 1788; that he knows the property called the Post purchase; Post lived on lot No. 94, and purchased part of lot No. 95 in Cosby's Manor aforesaid, in the year 1790, or 1791, or 1792. He thinks Pos was in possession before the deed to him, Post made improvements fast; as early as 1792 he extended them back to the hill, skipping over a low part of the ground which was not at that time improved: Post continued to occupy it from twelve to sixteen years, claiming to be owner; it was during that time subdivided, and includes a part of the now city of Utica. Witness also knew the Coreys; they purchased the middle part of said lot No. 95; they were there in the year 1791, or 1792; the second season they built a frame house and barn; the property has ever since been occupied under their title.

Upon his cross examination, the said witness testified that he was personally acquainted with Doctor Wolcott, who died some six to twelve years since, in the large house on said lot No. 90. Witness knows that the demandant's claim extended equally to lots numbers 90, 95, 96, and 97. Witness lives on No. 96, in a house of his son-in-law, Theodore S. Faxton, but has no claim or lease. Witness once owned part of lot No. 97, in right of his wife, and sold it with warranty; does not know but he has testified on former occasions that his brother-in-law, Wm. F. Potter, promised to give him a deed for the lot upon which witness built the house before mentioned, and which house and lot were sold on execution as aforesaid. Witness laid out his own labor in building that house, but Potter never gave witness a deed of the lot, and that witness owed him considerable money.

And the said counsel for the said tenant, Anson Thomas, then rested his cause.

And thereupon the said demandant requested the said district judge to decide whether the said tenant, Anson Thomas, had proved sufficient to put her the said demandant to proof of her title? And the said district judge thereupon decided that the said tenant, Anson Thomas, had proved sufficient to put her the said demandant to proof of her title; to which said last mentioned decision of the said district judge, the said demandant did then and there except.

And thereupon the said demandant having opened the case on her behalf to the said grand assize, to maintain and prove the said mise, on her part, called as a witness Mary Bradstreet, who being duly sworn testified; that she knows the demandant, and is the widow of the demandant's brother Samuel; that she first became acquainted with the demandant in the autumn of the year 1799, at Peekskill on the North River in this State. Witness's husband was the son of Major Samuel Bradstreet, who was the son of *Colonel* John Bradstreet. Elizabeth, who married Peter Livius, was the sister of Major Samuel Bradstreet; the maiden name of *Colonel* John Bradstreet's wife was Mary Aldrich, and after *Colonel* John Bradstreet's death she married his kinsman who was *General* John Bradstreet, and by him she had

two children, Agatha and Martha; Agatha married Mr. Charles John Evans; Martha died unmarried; *General* John Bradstreet had no other children. Witness's husband derived title to lands in Cosby's Manor under the will of Martha Bradstreet, as also did the demandant. He and she were in possession of lands and title derived under the will of Martha Bradstreet. General Bradstreet is dead; and so are his wife and his daughters, Mrs. Evans and Martha Bradstreet. Mrs. Elizabeth Livius is also dead. The demandant was about eighteen years old when witness first knew her, and she the demandant, was then the wife of Matthew Codd; and she had resided in the State of New york from that time until now, except that she has been absent from the State some part of the time on business. Mrs. Elizabeth Livius was the aunt of the demandant; she never had any children; she made a will; Samuel Bradstreet, the witness's husband, and the demandant were the next of kin to Mrs. Livius; Sir Charles Gould and Sir Charles Morgan were the same person. And the said demandant further to maintain and prove the said mise on her part produced and offered in evidence an exemplification under the seal of the court of chancery of the state of New York of the decree of divorce pronounced in the said said court, in the suit brought therein by the said demandant against the said Matthew Codd. A copy whereof is contained in the schedule hereunto annexed, marked (A.)

Whereupon the counsel for the said tenant, enquired of the said demandant, whether she intended to offer any new, or different evidence in this case, from that heretofore offered by her, in other trials had in this court, in writs of right, by this demandant, against Henry Huntington, and others, for other portions of Cosby's Manor, claimed by this demandant, by virtue of the same title deeds, by which the premises in question were claimed.

In reply to which enquiry of the tenant's counsel, the said demandant admitted that she had no other, or different evidence from that offered by her in support of her title to lands in Cosby's Manor, on the trials referred to by the counsel for the said tenant. Whereupon the counsel for the said tenant objected to the evidence which he then understood was to be offered on behalf of this demandant, alleging that it had been given in evidence in former trials, in writs of right, between the said demandant and Henry Huntington, and others, for other portions of Cosby's Manor, and had been solemnly considered on a motion for a new trial in the cause of the said demandant against Henry Huntington, and that it was then decided by this court, that the evidence of the said demandant (then offered, and now intended to be offered) in no wise tended to establish a legal title to any portion of land in Cosby's Manor, now in controversy. And that the evidence, therefore, intended to be offered by the said demandant, would have established no right or title in her, to the premises in question, and was immaterial and irrelevaut. Whereupon the said Judge decided that, inasmuch as the evidence to make out the asserted title of the demandant to these and other lots in Cosby's Manor, had been frequently examined by the said judge, in other trials on behalf of the

said demandant, against the tenants of lands in Cosby's Manor, whereby he had become fully cognizant of the same, and that, as he had solemnly considered the same, on a motion for a new trial, in the case of Henry Huntington, at the suit of the said demandant, and had come to the conclusion that the said evidence tended in no wise to establish a legal title to any portion of the land in controversy, in the said demandant, he was, therefore, bound to overrule the same, as insufficient in law, and therefore, immaterial and irrelevant; to which said decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

And the said demandant then and there stated to the said judge, that she would offer each piece of testimony, which she intended to give, separately, and in succession, and would claim the right to give the same, and every part thereof, in evidence to the said grand assise, chosen in this cause: And the said demandant thereupon offered, in addition to the testimony by her before offered, and which was rejected:—

1. An exemplification under the great seal of the State of New York of letters patent from the then government of the province of New York, bearing date the 2nd day of January, 1734, to Joseph Worrell and others, for a certain tract of land therein particularly specified and described, but subject to the payment of quit rents, and within which said tract, the said lot which was afterwards laid out as lot No. 95, in "Cosby's Manor," is included, and which contains the premises in question in this suit; the due issuing of the patent, and that it included the premises in question in this suit, were admitted by the said counsel for the said tenant; but the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assise; to which said decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

2. A warrant under the hand and seal of Daniel Horsmanden, Esquire, chief justice of the supreme court of the then province of New York, bearing date the 7th day of May, 1772, directed to the sheriff of the county of Albany and commanding him to sell for arrears of quit rents, the premises described in the said patent to Joseph Worrell and others* But the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assise; to which said decision and opinion of the said judge, the said demandant did then and there, on her behalf except.

*with the return made by the said sheriff to the said warrant endorsed theron, which said return is contained in the schedule hereunto annexed, marked (B.)

3. An exemplification under the great seal of the State of New York, of a deed of indenture, made the 20th day of July, 1772, between Henry Ten Eyck, jun. Esq. sheriff of the county of Albany, of the one part, and Philip Schuyler, of the county of Albany, Esq. of the other part: wherin and whereby, after reciting the said warrant of the said Daniel Horsmanden, chief justice, as aforesaid; the advertisement of said lands for sale, pursuant thereto; the sale of the lands mentioned in the said deed, by virtue of the said warrant; and

the purchase of the said lands, and the payment therefor, by the said Philip Schuyler, as the highest bidder therefor: the said sheriff conveyed the said lands therein described, to the said Philip Schuyler, his heirs and assigns; and which said lands comprehended the parcel afterwards designated as lot No. 95, in "Cosby's Manor," which includes the premises in question in this suit. But the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assise; to which said last mentioned decision and opinion of the said judge, the said demandant did then and there, on her behalf, except. A copy of which exemplification is hereto annexed, marked schedule No. 5.

4. The last will and testiment of Martha Bradstreet, one of the daughters and devisees of the said John Bradstreet; a copy whereof is contained in the schedule hereunto annexed, marked (D.); but the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assise; to which said last mentioned decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

5. A map of the tract designated as "Cosby's Manor," which comprises the lands described in the said patent to Joseph Worrell and others, and also the lands lying easterly thereof, and adjacent thereto, and which are comprised in a certain other patent, granted by the then government of the province of New York, to John Lyne and others, and bearing date the 2nd day of January, 1734; the said map purported to have been made on the 31st day of August, 1786, and in pursuance of a survey the said lands, by John R. Bleecker, and the names of the proprietors, and other writing on the said map, were in the hand-writing of the said John R. Bleecker; the said "Cosby's Manor," was divided on the said map, into one hundred and six lots; and the several lots respectively drawn on the partition of the said manor, to the four proprietors, Philip Schuyler, John Bradstreet, Rutger Bleecker, and John Morin Scott, were marked on the said map, with their respective names; and the said lot, No. 95, was amongst other lots which fell to the share of the estate of the said John Bradstreet, and marked with the name of the said John Bradstreet. But the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assize; to which said last mentioned decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

6. A deed of partition indented, made the 19th day of December, 1786, between the said Philip Schuyler, of the one part, and the said Rutger Bleecker of the other part, wherein and whereby the said Rutger Bleecker released to the said Philip Schuyler, several lots of land, in Cosby's Manor, and amongst them, the said lot, No 95; but the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assize; to which last mentioned decision and opinion of the said judge, the said demandant did then and there, on her behalf, except; a copy of which said deed is hereto annexed, marked, schedule No. 6.

An exemplification under the seal of the court of chancery of the State of New York, of the bill of complaint of the said Charles John Evans, and Agatha, his wife, against the said Philip Schuyler; the answer of the said Philip Schuyler thereto; copies of which said bill of complaint, and of the said answer thereto,* are contained in the schedules hereunto annexed, marked respectively (E.) and (F.); but the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assize; to which said last mentioned decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

*or of so much thereof as relate to the said lands in "Cosby's Manor."

8. An exemplification under the seal of the said court of chancery, of the testimony of the said William Smith, taken in the said suit in chancery between the said Charles John Evans and Agatha, his wife, complainants, and the said Philip Schuyler, defendant, a copy whereof, or of so much thereof as relates to the said lands in "Cosby's Manor," is contained in the schedule hereunto annexed, marked (G.); but the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assize; to which said last mentioned decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

9. A certificate of the assistant register of the said court of chancery, under the seal of the said court, dated 15th September, 1827, certifying that he had carefully examined the records and titles in his office, and did not find any decretal order in the said cause, in the said said court of chancery, between the said Charles John Evans, and Agatha, his wife, complainants, and the said Philip Schuyler, defendant; but the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assize; to which said last mentioned decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

10. An examplification of the record under the seal of the county of Herkimer, of an indenture made the 16th day of May, 1794, between the said Philip Schuyler, as executor of the last will and testament of the said John Bradstreet, deceased, of the one part, and the said Agatha Evans of the other part, a copy whereof is contained in the schedule hereunto annexed, marked (H.); but the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assize; to which said last mentioned decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

11. The will of Elizabeth Livius, a copy whereof is contained in the schedule hereunto annexed, marked (I.); but the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assize; to which said last decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

12. Two deeds of release from the said Samuel Bradstreet to the said defendant, copies whereof are contained in the schedules here-

unto annexed, marked respectively (K,) and (L,); but the said judge rejected the said testimony, and decided, that the same should not be given in evidence to the said grand assize: to which said last mentioned decision and opinion of the said judge, the sad demandant did then and there, on her behalf, except.

13. The consent of Sir Charles Morgan to the marriage of the demandant with the said Matthew Codd; a copy whereof is contained in the schedule hereunto annexed, marked (M); but the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assize: to which said last mentioned decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

14. An exemplification of a decretal order of the said court of chancery, under the seal thereof, requiring the said Edward Goold to convey to the said demandant, the real estate therein mentioned; a copy of which said decretal order, together with copies of the pleadings of the cause, wherein the said decretal order was made, are contained in the schedules hereunto annexed, marked respectively, (N,) (O,) (P,) (Q,) (R,); but the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assize: to which said decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

15. The deed of the said Edward Goold to the said demandant, in pursuance of the said decretal order; a copy of which deed is contained in the schedule hereunto annexed, marked (S,); but the said judge rejected the said testimony, and decided that the same should not be given in evidence to the said grand assize; to which said last mentioned decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

16. An exemplification, under the seal of the district court of the United States, for the southern district of New York, of the proceedings filed in that said court, on the commission of bankruptcy, issued against the said Edward Goold and Charles D. Goold, of the city of New York, merchants; containing amongst other things, the report made the 6th day of December, 1802, by John Broome, Jonathan Pierson, and James Fairlie, the commissioners appointed in and by the said commission of bankruptcy, by which it was found that the said Edward Goold became a bankrupt since the first day of June, 1800; and containing also, the confirmation of the said report of the said commissioners, by John Sloss Hobart, Esquire, judge of the district court of the United States, for the district of New York, on the 28th of December, 1802: but the said judge rejected the said testimony, and refused to permit the same to be read in evidence; to which said decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

17. An exemplification under the seal of the supreme court of judicature of the people of the State of New York, of the record of a certain judgment in partition, in the same court, signed, filed, and docketed, the 11th day of October, 1806, in which the said Matthew Codd, and Martha his wife, (the demandant in this suit,) were peti-

tioners, and Richard Harison, Edward Goold and Charles Wilkes, of the city of New York, holding in trust for the representatives of Frances Bainbridge, deceased, Benjamin Walker, Nathan Williams and Jonas Platt, of the county of Oneida executors of the last will and testament of the said Frances Bainbridge, deceased, and the said Edward Goold as trustee for the said Samuel Bradstreet, were defendants; by which said judgment three equal undivided twelfth parts of lots Nos. 47, 57, 58, 59, 60, 61, 79; of the northerly half of lot No. 2; and the whole of lot No. 43, (excepting only one hundred acres thereof,) in the said tract called "Cosby's Manor," appeared to belong to the said demandant in this suit; eight equal undivided twelfth parts thereof, to the said Richard Harison, Edward Goold and Charles Wilkes, and the said Benjamin Walker, Nathan Williams and Jonas Platt, as trustees and as executors as aforesaid; and one equal undivided twelfth part thereof, to the said Edward Goold as trustee for the said Samuel Bradstreet; and partition of the said premises was thereupon ordered to be made between the said parties, according to their respective rights; and partition having accordingly been made by Abraham M. Walton, Alexander Coventry and Charles C. Brodhead, commissioners, duly appointed by the said supreme court of judicature, for that purpose, between the said parties respectively, in the proportions aforesaid; it was considered and adjudged by the said supreme court of judicature, that the said partition be confirmed, and that the same be firm and effectual forever between all the parties thereto: but the said judge, rejected the said testimony, and decided that the same should not be read in evidence: to which said last mentioned decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

18. An exemplification under the seal of the said supreme court of judicature, of the report of the said commissioners, in the said partition suit, with the map made by them, thereto attached; but the said judge rejected the said testimony, and decided that the same should not be read in evidence: to which said last mentioned decision and opinion of the said judge, the said demandant did then and there, on her behalf, except.

19. The last will and testament of General John Bradstreet, made the 25th day of September, 1774. And a copy whereof is contained in the schedule hereunto annexed, marked (T); but the said judge rejected the said testimony, and decided that the same should not be read in evidence to the said grand assize: to which said last mentioned decision and opinion of the said judge, the said demandant did then and there except.

20. An exemplification under the seal of the prerogative court of Canterbury in England, of a will and testament of the said General John Bradstreet, made the 10th November, 1754, and of the letters testamentary thereon, granted to Charles Gould, one of the executors named in, and appointed by the said will—a copy of which said will is contained in the schedule hereunto annexed, marked (U): but the said judge rejected the said testimony, and decided that the same should not be read in evidence to the said grand assize: to which said last

mentioned decision and opinion of the said judge, the said demandant did then and there except.

The following facts were admitted on the trial:

That the demandant is the same person, named Martha Bradstreet, a devisee in the respective wills of Martha Bradstreet, deceased, and of Elizabeth Livius, deceased, and in the said deed from the said Philip Schuyler, to the said Agatha Evans and Edward Goold, and the same person named Martha Codd, in the said decretal orders of the said court of chancery, and in the said deed of the said Edward Goold to Martha Codd.

That she was born the 10th day of August, 1780; that she was born in the island of Antigua, in the West Indies, and was married to Matthew Codd, in Ireland, on the 16th of April, in the year 1799; and that she is an alien, and a subject of the king of the united kingdom of Great Britain and Ireland.

That she arrived in the State of New York, with her said husband, in the autumn of the said year 1799, and that she has ever since resided in the State of New York.

That she is the daughter of Major Samuel Bradstreet, the son of Mrs. Mary Bradstreet, by her *first* husband, *Colonel* John Bradstreet, that Mrs. Elizabeth Livius was the daughter of the said Mary Bradstreet, by her said *first* husband; that the said Elizabeth Livius never had issue; and that the said demandant and her said brother Samuel Bradstreet, were the nearest of kin to, and heirs at law, of the said Elizabeth Livius.

That the said General John Bradstreet died on the 26th day of September, 1774, in the city of New York; that his said daughter Martha Bradstreet, died the 22nd day of March, 1782, in England, without issue, and unmarried; that his widow, Mary Bradstreet, died the 31st day of March, 1782, in England; that the said Charles John Evans died the 9th day of August, 1793; that the said William Smith died in the latter part of the year 1793; that the said Agatha Evans, one of the two daughters of the said General John Bradstreet, and the widow of the said Charles John Evans, died the 9th day of February, 1795; that the said Elizabeth Livius died in England, the 4th day of May, 1795; that the said Philip Schuyler died the 18th day of November, 1804; that the Mr. Charles Gould mentioned in the will of the said General John Bradstreet, the Sir Charles Gould mentioned in the will of the said Martha Bradstreet, and the Sir Charles Morgan mentioned in the will of the said Elizabeth Livius, were one and the same person, and that he died in England about 20 or 30 years ago; and that the value of the premises in controversy, was more than $2,000.

And the said judge did then and there, deliver his opinion to the said grand assize, and did charge in substance, and to the following effect:

That by the course of practice in a writ of right, the tenant was required to begin by offering his testimony. That this rule seemed to imply, that he must adduce some testimony, although to what extent or effect, seemed not very clear from any treatise on this antiquated form of action.

In this instance, the proof adduced by the tenant did not show

title or possession in himself. Still he deemed it sufficient to put the demandant to the proof of her seizen or better title in herself, and she having failed to give such proof, was not entitled to recover. And that the grand assize ought therefore to find a verdict in favor of the tenant: to all which said opinion and charge of the said judge, the said demandant did then and there, on her behalf, except.

And inasmuch, as the said several matters so given in evidence on the part of the said tenant, and the objections made thereto on the part of the said demandant, and the said several matters so offered in evidence on the part of said demandant, and rejected by the said judge, do not appear by the record of the verdict aforesaid, the said demandant did then and there propose her aforesaid exceptions to the decisions and opinions of the said judge, and requested him to put his seal to this bill of exceptions, containing as well the said several matters so given in evidence on the part of the said tenant, and the objections so made thereto on the part of the demandant, as the said several matters so offered in evidence on the part of the said demandant and so rejected by the said judge as aforesaid, according to the form of the statute in such case made and provided; and thereupon the said judge, at the request of said counsel for the said demandant, did put his seal to this bill of exceptions, on the nineteenth day of January, in the year of our Lord one thousand eight hundred and thirty-six.

ALFRED CONKLING. [L. S.]

SCHEDULE, No. 1.

This indenture, made the twenty-second day of August, in the year of our Lord one thousand seven hundred and ninety-three, between Agatha Evans, of the city of New York, and State aforesaid, widow, and Sir Charles Gould, of the city of Westminster, in the kingdom of Great Britain, by Edward Gould, of the city of New York, merchant, his attorney, of the first part, and John D. Petrie, of German Flatts town, in the county of Herkimer, and State of New York aforesaid, of the second part, witnesseth: that the said parties of the first part, for and in consideration of the sum of two hundred and twelve pounds, sixteen shillings, lawful money of New York, to them in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold, remised, released, aliened, and confirmed, and by these presents do grant, bargain, sell, remise, release, alien, and confirm unto the said party of the second part, in his actual possession, now being, by virtue of a bargain, sale, and lease, to him thereof made by the said parties of the first part, by indenture bearing date the day next before the day of the date of these presents, and by force of the laws for transferring of uses into possession, and to his heirs and assigns for ever, all that certain piece or parcel of ground situate, lying, and being on the Mohawk river, in the county of Herkimer aforesaid, in what is commonly called Cosby's Manor, which said piece or parcel of ground is part of lot number ninety, on the south side of the said river, in the manor aforesaid, the said piece hereby granted being eight chains wide upon the river, and beginning on the said river at

such place as shall leave, for the whole length of the said lot on the east side thereof, a width of two chains, and westerly by land lately conveyed to Matthew Hubbell, until it comes to the southern extent of the purchase made in the said manor by Philip Schuyler Bradstreet and others, the said width of eight chains, running as aforesaid, containing one hundred and sixty-seven acres of land, be the same more less, *less*, together with all and singular the hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, claim, or demand whatsoever of the said parties of the first part, either in law or equity, of, in, and to the above bargained premises, with the said hereditaments and appurtenances, to have and to hold the said piece or parcel of ground, with all and singular the appurtenances, to the said party of the second part, his heirs and assigns, to the sole and only proper use, benefit, and behoof of the said part of the second part, and assigns, forever; and the said parties of the first part, for themselves, their heirs, executors, and administrators, do covenant, grant, bargain, promise, and agree, to and with the said party of the second part, his heirs and assigns, that the above bargained premises, in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part of the said above mentioned and described premises, will forever warrant and defend.

In witness whereof, the parties to these presents have hereunto interchangeably set their hands and seals the day and year first above written.

AGATHA EVANS [L. S.]
Sir CHARLES GOULD.
By his Attorney, EDWARD GOOLD. [L. S.]

Sealed and delivered in the presence of—words "and" "first erased—

JEDEDIAH SANGER.
SARAH HOPPER.
PIERRE C. BEEKMAN.

Be it remembered, that, on the 17th day of October, 1793, personally appeared before me, Hugh White, one of the judges of common pleas in and for Herkimer county, Jedediah Sanger, one of the subscribing witnesses, who, being duly deposeth and saith, that he saw the within named Agatha Evans, Sir Charles Gould, by his attorney, Edward Goold, sign, seal, and deliver the within instrument, as his volutary act and deed, for the uses within mentioned, and that he, the deponent, and Sarah Hopper, and Pierre C. Beekman subscribed their names to the execution thereof, and I having examined the same, and finding no material alterations or interlinations, do allow the same to be recorded.

HUGH WHITE.

xd. Recorded the 19th day of September, 1798.
MEL. T. WOOLSEY, *Dy. Clerk*.

SCHEDULE, No. 2.

This indenture, made this tenth day of July, in the year of our Lord one thousand seven hundred and ninety-two, between Charles John Evans, of the City of New York, in the State of New York, gentleman, and Agatha, his wife, of the first part, and Sir Charles Gould, of the city of Westminster, in the kingdom of Great Britain, by Edward Goold, of the city of New York, and State aforesaid, merchant, his attorney, of the second part, and John Post, of Whitestown, in the county of Herkimer, and State of New York, of the third part, witnesseth: that the said parties of the first and second part, for and in consideration of the sum of eighty-nine pounds ten shillings, lawful money of the State aforesaid, to them in hand paid by the said John Post, party of the third part, at or before the ensealing and delivery hereof, the receipt whereof is hereby acknowledged by the said parties of the first and second parts, have, and each of them hath granted, bargained, and sold, released, aliened, and confirmed, and by these presents do and each of them doth grant, bargain and sell, release, alien and confirm unto the said John Post, party hereunto of the third part, his heirs and assigns, all that certain tract or parcel of land, being part of lot No. 95, on the south side of the Mohawk river, in Cosby's Manor, beginning at a stake standing on the southerly bank of the said river, being the north easterly corner of Augustus Corey and Thomas Corey's part of the same lot No. 95; from thence south thirty-six degrees and thirty-nine minutes west, on said Corey's east line, two hundred and fifty-one chains, to the south bounds of the said Cosby's Manor; thence south fifty-three degrees and thirty minutes east, three chains and sixty-seven links, on the said southerly line of Cosby's Manor; from thence north thirty-six degrees and thirty minutes east, on the easterly line of said lot No. 95, two hundred and thirty-eight chains, to the southerly bank of the aforesaid Mohawk river; from thence on the southerly bank of the said river north, twenty-one degrees east, thirteen chains and fifty links, to the place of beginning, and contains eighty-nine acres, one half, and twenty-seven rods, together with all and singular the tenements, privileges, commodities, emoluments, hereditaments, and appurtenances, whatsoever, to the said tract or parcel of land belonging or appertaining, or with the same reputed or taken as part, parcel, or member thereof, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and every part and parcel thereof, and all the estate, right, title, dower, interest, trust, property, claim and demand whatsoever, both at law or in equity, of them the said parties of the first and second part or either of them, in, to, or out of the said tract or parcel of land tenements, hereditaments, and premises. To have and to hold the said tract or parcel of land, tenements, hereditaments, and all and singular other the premises hereinbefore mentioned to be hereby grant-

ed, bargained, and sold, with their and every of their appurtenances, unto the said John Post, party hereunto of the third part, his heirs and assigns, to the only proper use and behoof of the said John Post, his heirs and assigns, forever. And the said Charles John Evans, and Agatha, his wife, parties hereunto of the first part, for themselves, their heirs, executors and administrators, and the said Sir Charles Gould, by the said Edward Goold, his attorney, aforesaid, party hereunto of the second part, his heirs, executors and administrators, do covenant, promise, and agree, to and with the said John Post, party hereunto of the third part, his heirs and assigns, in manner and form following, that is to say, that they the said parties hereunto of the first and second part, immediately at or before the execution of these presents, were the true and lawful owners of the said premises hereby granted, bargained and sold unto the said John Post, his heirs and assigns, and were rightfully seized thereof, of a good, sure, perfect, absolute and indefeasible estate of inheritance therein, in fee simple, without any manner of condition, limitation, trust, contingency, or incumbrance whatsoever, to alter, charge, change or determine the same, and that the said tract or parcel of land, tenements, hereditaments, and premises, shall and may at all times hereafter remain and continue and be for the uses hereinbefore mentioned and expressed, and shall and may be peaceably and quietly had, held, and enjoyed accordingly, without any lawful let or interruption of or by the said Charles John Evans, and Agatha, his wife, or his or her heirs or assigns, or of or by the said Sir Charles Gould, his heirs or assigns, or of or by any person or persons lawfully claiming or to claim, by, from, or under him, her, or them, or any or either of them, and shall so remain and continue, and be free and clear, and freely and clearly acquitted or discharged, or otherwise, by the said parties of the first and second part, well and sufficiently saved, defended, kept harmless, and indemnified of and from and against all former and other grants, bargains, leases, mortgages, estates, titles, recognizances, and incumbrances whatsoever had, made, or suffered, or to be had, made and suffered by the said Charles John Evans, and Agatha, his wife, or the said Sir Charles Gould and the said parties of the first part, for themselves, their heirs, executors and administrators, and the said party of the second part, for himself and his heirs, executors and administrators, do further covenant, promise and grant, to and with the said John Post, party hereunto of the third part, his heirs and assigns, and every of them, by these presents, that they and their heirs and assigns, and every of them, and all and every other person or persons whomsoever, lawfully claiming by, from, or under them, or either of them, shall and will, from time to time, and at all times hereafter, at and upon the reasonable request, and proper costs and charges in the law of the said John Post, party hereunto of the third part, his heirs and assigns, or some of them, make, do and execute, and cause to be made, done, and executed, all and every such further and other reasonable act and acts, thing and things, assurances and conveyances in the law whatsoever, for the further, better, and more perfect and absolute granting, conveying, and assuring the same lands, tenements, and hereditaments, and all and singular other premises hereby

granted, bargained and sold, and intended to be herein and hereby bargained and sold to and for the uses hereinbefore mentioned, as by the said John Post, party hereunto of the third part, his heirs or assigns, or by his or their counsel learned in the law, shall be reasonably advised, devised, or required, so as such further assurances contain in them no further or other covenants than against the person or persons, his, her, or their heirs, who shall make, do and execute the same.

In witness whereof, the parties to these presents have hereunto interchangeably set their hands and seals the day and year first hereinbefore written.

CHARLES JOHN EVANS. [L. S.]
AGATHA EVANS. [L. S.]
Sir CHARLES GOULD,
By his Attorney, EDWARD GOOLD. [L. S.]

Sealed and delivered in the presence of—(the letters "ir" interlined on the 19th line hereof, before execution.)

Witnesses present at the execution hereof, by Charles John Evans, and Agatha, his wife—
FRANCIS PAYNE.
JAMES M. HUGHES.

Received upon the day and year first within written, of and from the within named John Post, the full consideration money within mentioned to be by him to us paid.
Witness our hands,

CHARLES JOHN EVANS.
Sir CHARLES GOULD,
By his Attorney, EDWARD GOOLD, Witness.

Recorded Sept. 20, 1792.

SCHEEULE No. 3.

This indenture, made the twenty-fifth day of July, in the year of our Lord one thousand seven hundred and ninety-one, between Charles John Evans, of Brooklyn, King's county, and State of New York, gentleman, and Agatha, his wife; Sir Charles Gould, of the kingdom of Great Britain, by Edward Goold of the city of New York, merchant, his attorney, of the first part; and Augustus Corey and Thomas Corey, of the county of Herkimer, farmers, of the second part, witnesseth: that the said parties of the first part, for and in the consideration of the sum of two hundred pounds, lawful money of the State aforesaid, to them the said parties of the first part, in hand paid, by them the said parties of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, enfeoffed, conveyed and confirmed, and by these presents, do grant, bargain, sell, alien, enfeoff, convey and confirm unto the said

parties of the second part, and to their heirs and assigns, forever, all that certain lot, piece, or parcel of land, being part of lot number ninety-five in a certain tract of land called Cosby's Manor, situate, lying, and being in the county of Herkimer aforesaid, and beginning at a stake marked on the south easterly side with the letters A C and T C, standing on the south bank of the Mohawk river, seven chains and five links down the stream of the said river, from the north westerly corner bound of the said lot number ninety five; from thence south thirty-six degrees thirty-six minutes west, two hundred and sixty-one chains and fifty links, to a stake marked on the easterly side with the aforesaid letters A C and T C; from thence south fifty three degrees twenty-four minutes east, eight chains and nine links on the south bounds of the said Cosby's Manor, to a stake marked on the north westerly side with the aforesaid designating letters A C and T C; from thence north thirty-six degrees thirty-six minutes east, two hundred and fifty-one chains, to the aforesaid Mohawk river, to a stake marked on the westerly side with the aforesaid letters A C and T C; from thence up the aforesaid river, on the south bank thereof, as the river runs to the first mentioned bound or place of beginning, containing two hundred acres of land, with the rights, members, and appurtenances thereof; and the reversion and reversions, remainder and remainders, rents and services of all and singular the premises above mentioned, and of every part and parcel thereof, with their and every of their appurtenances; and also all the estate, right, title, interest, claim and demand whatsoever, as well in law as in equity of them the said parties of the first part, of, in, and to the same, and of, in, and to every part and parcel thereof, with the appurtenances. To have and to hold all and singular the said lot, piece, or parcel of land, hereditaments, and premises above mentioned, and every part and parcel thereof, with their and every of their appurtenances, unto the said parties of the second part, their heirs and assigns, to the only proper use and behoof of them the parties of the second part, their heirs, and assigns, for ever. And he, the said Charles John Evans doth hereby grant for him and his heirs, that the said Charles John Evans and his heirs, the said lot of land and premises hereby granted, and every part and parcel thereof, unto the said Augustus Corey and Thomas Corey, their heirs and assigns, against him the said Charles John Evans and his heirs, and against all pereons whatsoever, shall and will warrant and forever defend by these presents. In witness whereof, the parties to these presents have hereunto interchangeably set their hands and seals the day and year first above written.

CHARLES JOHN EVANS. [L. S.]
AGATHA EVANS. [L. S.]
Sir CHARLES GOULD.
By EDWARD GOOLD, *his Attorney.* [L. S.]

Sealed and delivered in the presence of us, by CHARLES & AGATHA EVANS, the words "south" and "ever" interlined, and the word nine" written upon an erazure, JAMES M. HUGHES, DE WITT

CLINTON, (by Sir Charles Gould, by Edward Goold,) JAS. M. HUGHES JOS. GOUVERNEUR.

Recorded Nov. 18, 1791.

SCHEDULE A.

"[L. S.] "The people of the State of New-York by the grace of God free and independent; to all whom these presents shall come greeting: know ye, that we having inspected the records of our court of chancery of our said State do find a certain decretal order there remaining in a certain cause in which Martha Codd is complainant, and Matthew Codd is defendant, which said decretal order is in the words following to wit: At a court of chancery held for the State of New York at the city hall of the city of New York on the sixteenth day of June in the year of our Lord one thousand eight hundred and seventeen. Prest: the honorable James Kent, Esq. chancellor. Between Martha Codd complainant, and Matthew Codd defendant, *whereas* heretofore to wit, that is to say on the thirty-first day of May in the year of our Lord one thousand eight hundred and sixteen, Martha Codd, complainant, did exhibit her bill of complaint into this high and honorable court of chancery, against Matthew Codd, defendant, thereby amongst other things setting forth that she was one of the devisees of Martha Bradstreet and of Elizabeth Livius, and as such entitled to a large real estate in this State and elsewhere, that in the year one thousand seven hundred and ninety-nine, at Wexford, in the kingdom of Ireland, she intermarried with the said Matthew Codd, of the same kingdom, the said Matthew being totally destitute of property. That in the same year they came to this State with a view permanently to reside therein, and that since their said arrival, they have been, and still are inhabitants of this State and residents within the same. That she hath five children issue of the said marriage, to wit, Elizabeth, Catharine, Sarah Mary Anne, Elanor Cloney, John Bradstreet and Edward Livius, all living, under the age of twenty-one years. That on the twenty-fourth day of May, one thousand eight hundred and eight, the said Martha and Matthew agreed to a separation, and entered into articles for that purpose; that in the month of January, one thousand eight hundred and nine, the said Matthew Codd left Utica, where the said Martha and Matthew had for about six years previous resided on a journey to various parts of the United States, but had not been domicilated in any place out of this State, and that since that time the said Martha had not seen him nor had any direct intercourse with him, nor received from him either directly or indirectly any money; that the said Matthew Codd had lately threatened to seize and remove their said children, and to seize the papers, furniture, and other necessaries of the said Martha, and that the said Matthew with a view to encumber her property and embarrass her titles, threatened to make leases and conveyances thereof, and that he had actually executed some instrument relating to or af-

fecting the same. And the said bill also stated, that the said Matthew had in numerous instances, both before and since their said separation, committed adultery as well in this State as elsewhere, within the United States and particularly, that on or about the fourth day of June, one thousand eight hundred, at the city of New York, the said Matthew committed adultery with Catharine Ratekin, the said Martha being at the time of their said separation utterly ignorant that he the said Matthew Codd had theretofore been guilty of adultery. For remedy whereof, or for relief wherein and to have an answer of the said Matthew in the manner prescribed by law to the several charges aforesaid, and amongst other things that the marriage aforesaid might be dissolved, and that she might be restored to her rights and property, and might have the exclusive custody care and management of her said children; the complainant, the said Martha, prayed the aid and assistance of this court and process of subpœna to be awarded against the said defendant to appear in this court and answer the premises. Which being granted, and the defendant therewith served, he appeared accordingly, and answered the said bill; and the defendant by his answer admitted, that he and the complainant intermarried in the year and the place for that purpose stated in the said bill, that he and the complainant came to this State for the purpose mentioned in the said bill, and that they have been and still are inhabitants of the same and residents therein, and the said defendant in and by his said answer denied that he had in any instance since his said marriage committed adultery with any persons whatever, but had always been, and yet was faithful and affectionate to the complainant; whereupon on the coming in of the said answer, this court did by virtue of the authority in it vested and pursuant to the statute in such case made and provided on the twenty-eight day of February last past, make its order in this behalf between the parties aforesaid, and thereby direct that a feigned issue should be made up and joined for the trial of the fact of adultery, charged by the complainant in her said bill and denied by the defendant in his said answer, and that the said issue should be tried at the then next sittings appointed to be holden in and for the city and county of New York, but that no evidence of the confession of the defendant in maintenance of the said issue should be received at the trial thereof. And now the record of the trial of the said issue being returned into this court, and the said cause so standing in this court coming on to be heard this day in the presence of counsel learned on both sides, the substance of the complainant's bill, and the defendant's answer thereunto and of the order aforesaid appeared to be as is before recited. Whereupon and *and* upon debating the matter and hearing what could be alleged by the counsel on both sides, it appeared to this court satisfactorily by the trial of the issue aforesaid, that the defendant had been guilty of the adultery charged in the said bill, and the complainant hereupon producing to this court here the certificate of the judge before whom the said issue was tried, that no evidence of the confession of ths defendant was received at the trial of the said issue in the maintenance thereof, and that the verdict was supported by proof without confession of the party char-

ged. On the motion of A. Burr, of counsel for the said complainant this court doth by virtue of the power and authority in it vested, and pursuant to the statute in such case made and provided, order, adjudge and decree, that the marriage between the parties in this cause be dissolved, and each party freed from the obligations thereof. And it is further ordered adjudged and decreed by virtue of the power and authority aforesaid and pursuant to the statute in such case made and provided, that the said complainant have the exclusive custody, care and control of the children of the said marriage, and that the said defendant do forthwith deliver over to the complainant or to her solicitor, or attorney legally authorized, all deeds, patents, agreements, leases, and counterpart of leases, papers, and evidences of title which do or may relate to or concern any lands which belonged to the complainant at the time of their marriage, or which have descended to or devolved upon her, or have been acquired by her or for her use at any time since, and also all books of account, papers, and vouchers which do or may in any way concern the goods or chattels, or choses in action which were left with her by her husband, or which she may have acquired by her own industry, or which may have been given to her by devise or otherwise, or may have come to her or to which she may be entitled by the decease of any relative intestate. And it is further ordered that the defendant pay to the complainant the costs of this suit to be taxed. All which we have caused by these presents to be exemplified, and the seal of our said court of chancery to be hereunto affixed. Witness James Kent, Esquire, chancellor of our said State at the city of Albany, on the fourteenth day of July, in the year of our Lord one thousand eight hundred and seventeen, and of the independence of the United States of America the forty-second.

ISAAC L. KIP,
Assistant Register."

SCHEDULE B.

By virtue of the within process, to me directed, and in consequence of an advertisement, by me made, pursuant to the act of the Lieutenant Governor, the Council and the General Assembly within mentioned; I have on this fourth day of July, in the year of our Lord, one thousand seven hundred and seventy-two, between the hours of nine and twelve of the same day, at the court house or city hall, in the city of Albany, in the county of Albany, sold, disposed of, and struck off at public vendue or out cry, to Philip Schuyler, Esq. the highest and best bidder, twenty one thousand nine hundred acres of the within mentioned tract of land, to be located in the manner, as by the said act is directed, for the within mentioned sum of twelve hundred and forty-three pounds ten shillings and seven pence, being the arrears of quit rent, and charges within mentioned, and for the further sum of one hundred and forty-three pounds fourteen shillings, and for the charges of advertisement, sale, survey and conveyance, and other incidental charges as within, and by the said act I am commanded and authorized. HENRY TEN EYCK, Jr. *Sheriff.*

SCHEDULE No. 5.

This indenture made this twentieth day of July, in the year of our Lord one thousand seven hundred and seventy-two, between Henry Ten Eyck, Jun'r. Esq. sheriff of the county of Albany, of the one part, and Philip Schuyler, of the county of Albany, Esq. of the other part. Whereas, Daniel Horsmanden, Esq. chief justice of the supreme court of judicature, for the province of New did issue a certain process, under his hand and seal, dated the seventh day of May, in the year of our Lord, one thousand seven hundred and seventy-two, to the sheriff of the county of Albany directed, and which to the said sheriff was in due form of law delivered, to be by him executed, reciting that whereas Andrew Elliott, Esq. his majesty's receiver general, of this colony of New York, on the 25th day of November, then last past, represented to him the said chief justice, that on the first day of June, in the year of our Lord one thousand seven hundred and sixty-seven, there were three and more years quit rent due, and in arrear to his majesty for a certain grant and patent, bearing date the second day of January, in the year of our Lord one thousand seven hundred and thirty-four, unto Joseph Warrell, William Cosby, sheriff of Amboy, John Lyne, Thomas Freeman, Paul Richards, John Felton, Charles Williams, Richard Shuckburg, Timothy Bagley, James Lyne and Frederick Morris, for all that certain tract or parcel of land, situate, lying, and being in the county ofAlbany, on both sides of the Mohawks river, beginning at a certain place on the south side of the said Mohawks river, and the west side of a brook called Sedaghqueda, where the said brook falls into the said river, and runs thence south, thirty-eight degrees west, two hundred and thirty eight chains; then south, fifty-two degrees east, four hundred and eighty-three chains; then north, thirty-eight degrees east, four hundred and eighty chains; then north fifty-two degrees west, four hundred and eighty-three chains; and then south thirty-eight degrees, west two hundred and forty-two chains, to the place where the same tract began; containing twenty-two thousand acres of land, and the usual allowance for high ways: and further reciting that the said Andrew Elliot had made due proof unto him, the said chief justice that in pursuance of an act of the Lieutenant Governor, the Council and the General Assembly of this colony of New York, entitled, an act for the more effectual collecting of his majesty's quit rents in the colony of New York, and for partition of lands in order thereto, he, the said receiver general, therefore had in due form of law given notice, in two of the public newspapers, printed and published in the city of New York, (and that the same public notice had been so continued weekly for three months successively, from the said first day of June,) that if the owners or proprietors of the said lands did not within twelve months after the date of such public notice, pay the arrears of quit rent due to his majesty for the said lands, with the charge of such notice or notices being given to the said receiver general, that so much of the said lands would be sold at public vendue or outcry, as would pay the same, with the charges of the said notices and sale; and that in

the said notice so given in the said public newspapers as aforesaid, it was expressed to whom the said grant or patent was originally made, the date of the said grant, and the sum due thereby, to the last day of payment preceding such notice, so far as the same did appear from the accounts of his majesty's quit rents, in the custody of the said receiver general: and further reciting, that whereas, also, that whereas the said receiver general, on the said twenty-fifth day of November, had further represented to him, the said chief justice, that more than twelve months had elapsed since the publication of the said notice as aforesaid, and th..t neverthless the said quit rents for the grant and patent aforesaid, had not been discharged, but that failure had been made of the payment of the said quit rent and charges of such notice as aforesaid, and had thereupon applied to him, the said chief justice, for relief in the premises; and that thereupon he, the said chief justice had, by virtue of the power and authority to him given, by the said act of the Lieutenant Governor, the Council and the General Assembly of this colony, as one of his majesty's justices of his majesty's court of exchequer for this colony, on the said twenty-fifth day of November, in pursuance of the directions of the same act, caused an advertisemet to be published in one of the public newspapers, printed in the city of New York, notifying the several owners and proprietors of the said lands granted in the said grant or patent, to be and appear before him, at his chambers in Smith street, in the city of New York, on the thirteenth day of December then next, to show cause, if any, he, she or they had, why so much of the said lands in the said grant or patent contained, should not be sold as should be sufficient to satisfy the sum due to his majesty for arrearages of quit rent for the said grant and patent, with the charges. And further reciting, that whereas, the owners or proprietors of the said lands, or any, or either of them had not appeared before him, the said chief justice, on the day so appointed as aforesaid, for that purpose, according to the form and effect of the said notice, and that due proof having been made to him, the said chief justice, by the said receiver general, of the amount of the quit rent due and in arrear to his majesty for the said grant or patent. He, the said chief justice, in further pursuance of the said act of the Lieutenant Governor, the Council, and the General Assembly, had on the said day of the test of the said process, certified that there was *was* due to his majesty for quit rent for the said grant or patent, for the lands aforesaid, to the twenty-fifth day of March, then last past, being the last day of payment thereof, preceding the date of the said certificate, the sum of twelve hundred and twenty-six pounds ten shillings and ten pence, current money of the province of New York, and that the further sum of sixteen pounds nineteen shillings and nine pence, current money aforesaid, was due to his said majesty, as well for the charges then already accrued, in and by the proceedings aforesaid, as for the charges of the said process; and whereas, he, the said chief justice, did therefore, in and by the said process, and in further pursuance of the said act of the Lieutenant Governor, the Council and the General Assembly, in his majesty's name, command him, the said sheriff, within sixty days after the test of the

said process, to sell and dispose of at public vendue or outcry, to the highest or best bidder, so much of the lands contained, with the grant and letters patent aforesaid, as would pay the said sum of twelve hundred and twenty-six pounds ten shillings and ten pence, so certified to be due to his majesty for quit rents as aforesaid, and the said further sum of sixteen pounds nineteen shillings and nine pence, so certified to be due as aforesaid, for the charges as afosesaid amounting in the whole to twelve hundred and forty-three pounds, ten shillings and seven pence, and the further incidental charges thereon; and that he, the said sheriff, should pay the said moneys into the hands of the said receiver general within twenty days after such sale, conforming in all things touching the same, to the directions in and by the said act of the Lieutenant Governor, the Council, and the General Assembly in that behalf given and prescribed, and that thereof he should fail not, as by the said process, reference being thereunto had, may appear. And whereas, the said sheriff being thereto empowered and required by the said act, did, within six days after the receipt of the said process, cause advertisements to be fixed on the court house of the city of Albany, of the county of Albany, and also at the church door of the township of Kinderhook, as also, at the door of the church at Katskill, and also at the door of the house of John Boon, tavern keeper, situate near the Mohawk river, three of the most usual public places in the said county of Albany, (as the same did extend and was bounded at and for some time after the above recited proceedings were begun,) and within which the above said lands did then lie, that on the fourth day of this instant month of July, a day not exceeding fifty, nor less than forty days after the date of such advertisement, (the same being dated the twenty-second day of May last,) so much of the said lands would be sold at public vendue or outcry, to the best bidder, as would pay the sum mentioned in the said process, and the charges of advertisement, sale, survey and conveyance, and other incidental charges. And whereas, also, the said sheriff, before he made the sale as aforesaid directed, and hereinafter mentioned, did, on the third day of this instant, July, take an oath administered to him by David Edgar, Esq. one of his majesty's justices, of the peace for the said county of Albany, of the tenor in and by the said act directed, and did obtain and file a certificate thereof, as in and by the said act is directed, and on the said fourth day of this instant month of July, he, the said sheriff, pursuant to the directions of the said act and process, and in consequence of his said advertisement, did, between the hours of nine and twelve of the forenoon of the same day, at the court house of the city of Albany aforesaid, expose to sale at public vendue or outcry, so much of the said lands to be struck off to the best bidder, as would pay the sum mentioned in the said process, and the charges of advertisement, sale, survey, conveyance, and other incidental charges; at which public vendue or outcry the said sum and the said charges were publicly mentioned and declared, and the sale aforesaid was then and there continued and kept open during all the time, between the said hours of nine and twelve, and of all the lands grant-

ed and contained in and by the said letters patent or grant, were then and there struck off to the said Philip Schuyler as the best bidder, twenty-one thousand nine hundred acres. And whereas, since the making of the said sale, the said sheriff hath caused the said lands so sold to be surveyed and laid out in one entire piece, beginning at, and including one end or side of the said whole tract of land, and extending forward and also cross the same, so as to include all the uncultivated lands or unimproved lands in the said tract, that can be included in one entire piece, and so also as to include the said quantity of twenty-one thousand nine hundred acres; which said lands so sold, struck off, and surveyed as aforesaid, are butted and bounded as are hereinafter described and mentioned to be hereby granted and released.

Now, therefore, this indenture witnesseth, that he, the said sheriff, in execution of the said act and process, and for, and in consideration of the said moneys mentioned in the said process, and also for, and in consideration of the further sum of one hundred and forty-three pounds, fourteen shillings, the aforesaid charges of advertisement, sale, survey, and conveyance, and other incidental charges, amounting together, to the sum of thirteen hundred and eighty-seven pounds four shillings and seven pence, current money of New York, to him, the said sheriff, in hand well and truly paid by the said Philip Schuyler, at or before the sealing and delivery of these presents, the recept, whereof of the said sheriff doth hereby confess and acknowledge, and thereof and therefrom, and of and from every part and parcel thereof, doth hereby release, exonerate, acquit, and forever discharge the said Philip Schuyler, his heirs, executors, administrators and assigns, he, the said sheriff, hath granted bargained, sold, aliened, released, conveyed, assured and confirmed, and by these presents doth fully, freely, and absolutely grant, bargain, sell, alien, release, convey, assure, and confirm unto the said Philip Schuyler, (in his actual possession now being by virtue of a bargain and sale to him thereof made by the said sheriff for one whole year, by indenture bearing date the day next but one before the day of the date of these presents, and by force of the statute for transferring of uses into possession,) and to his heirs and assigns, all that certain piece, parcel or tract of land, surveyed and laid out into one entire piece as aforesaid, and parcel of the lands mentioned and granted in and by the said grant and patent, and butted and bounded as follows: that is to say, beginning at a certain place on the south side of the Mohawks river, and the west side of a brook called Sedaghqueda, where the said brook falls into the said river, and runs thence south, thirty-eight degrees, west two hundred and eleven chains and forty-one links; then south fifty-two degrees east, four hundred and eighty-three chains; thence north thirty-eight degrees, east four hundred and fifty-three chains and forty-one links; thence north fifty-two degrees, west four hundred and eighty-three chains; thence south, thirty-eight degrees west, two hundred and forty-two chains, to the place of beginning; containing as aforesaid. Together with all and singular, the houses, messuages, buildings, barns, stables mills, orchards, gardens, fences, out-houses, waters, water-courses,

rivers, rivulets, runs and streams of water, ponds, pools, lakes, woods, meadows, swamps, hedges, ditches, underwoods, trees, ways, paths, and all and *and* singular other the hereditaments and appurtenances thereunto belonging or any wise appertaining: and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and of every part and parcel thereof, with the rights, members and appurtenances, and also all the estate, right title, and interest of any and every person and persons whomsoever, claiming or deriving title to the said hereby granted and released premises, or any part or parcel thereof, with the appurtenances, by, from, or under the said letters patent, whether at law or in equity. To have and to hold all and singular the said tract, piece, or parcel of land, and all and singular, other the tenements, hereditaments, and premises, and every part and parcel thereof, with the appurtenances hereby granted, conveyed and released, or herein meant, mentioned, or intended to be hereby granted, conveyed and relessed unto the said Philip Schuyler, his heirs and assigns, to the sole and only proper use, benefit, and behoof of the said Philip Schuyler, his heirs and assigns, forever; as fully, wholly, and amply, to all intents, constructions, and purposes whatsoever, as he, the said sheriff, is by the said act and process authorized, enabled, and required to grant, convey, and release the same to the best bidder, and to no other use, intent or purpose whatsoever. In witness whereof, the parties to these presents have hereunto interchangeably set their hands and seals, the day and year first above written. Henry Ten Eyck, Jr. Sheriff. [L. s.] Sealed and delivered in the presence of the words [him] and [his] in the twenty-fifth line, and words [twenty-one thousand] in the fiftieth line, being first written on razures ; and razure made in the fifty second-line, between the word [include] and the word [the] and the said word [the] and next word [said,] also wrote on a razure; and the word [of] in the first skin, and the words [but one] in the second skin, interlined, all before sealing and delivery; also the word [east] in the second skin, first interlined, Robert Yates, Peter W. Yates. Received on the day of the date of the within mentioned, from the within named Philip Schuyler, Esq'r. the sum of thirteen hundred and eighty-seven pounds four shillings and seven pence, in full, for the consideration money within specified. Be it remembered, that on the second day of November, in the year of our Lord one thousand seven hundred and ninety three, personally appeared before me, Jeremiah Lansingh, one of the masters in chancery, for the State of New York, Peter W. Yates, who being duly sworn, made oath that he saw Henry Ten Eyck, while the said Henry Ten Eyck was sheriff of county of Albany, execute the within written indenture as his voluntary act and deed, and that he, the said Peter W. Yates, together with Robert Yates, subscribed their names as witnesses to the execution thereof; and having examined the said indenture, and finding no material razures, interlineations, or obliterations therein, except those noted, I allow the same to be recorded.

JEREMIAH LANSINGH.

Clerks Office of the county of Herkimer, ss:

Recorded the within written indenture in liber B. of deeds, pages 277, &c. 23rd Janusry, 1795.

RD. LEAVENWORTH, *D. Clerk.*

STATE OF NEW YORK, *Secretary's Office.*

Recorded in lib. deeds, M. R. R. page 211, &c. the 15th day of July, 1812, at noon.

ARCHD. CAMPBELL, *Deputy Secretary.*

SCHEDULE D.

"In the name of God, amen. I, Martha Bradstreet, formerly of the town of Boston, in North America, and now residing in the parish of Marybone, Westminster, spinster, being in my usual state of health, and of sound mind and memory, do make this my last will as follows. I give and devise to my dear mother, Mrs. Mary Bradstreet, the produce and interest of my estate, real and personal, during her life, and the sum of one thousand pounds principal, and my apparel, household furniture, and any cash I may have by me at my decease, to dispose of as she may think proper, subject however, to the payment of my debts, funeral charges, and the sum of one hundred pounds, which I bequeath to my aunt, Mrs. Martha Aldridge, widow, to be paid in one month after my decease. And as to my said real estate, and the residue of my personal estate, and the rent, issues, interests and profits of both, after my dear mother's death; I give, devise and bequeath the same, and whatsoever I may in any wise be entitled unto, as follows: one equal third part thereof to my sister Elizabeth Livius, her heirs and assigns forever, to be at her own disposal, and independent of her husband, by will, or otherwise. One other equal third part to Samuel Bradstreet, and Martha Bradstreet, children of my late brother Samuel Bradstreet, deceased, and to their heirs, and assigns forever, equally to be divided between them, and with benefit of survivorship in case of the death of either of them before the age of twenty-one years: but in case of the death of both in their minority, the said onet-hird, to be equally divided between my sisters, Agatha Du Bellamy, and Elizabeth Livius, and to vest in them respectively in like manner, as the one-third part devised to each of them. But it is my will, that the produce of the said one-third part of my estate, and and if necessary, part of the principal, shall be applied to the maintenance and education of the said Samuel, and Martha, during their infancy. And as to to the remaining one-third part of my estate, I give and devise the produce, income and profits of the same, to my said sister Agatha, wife of Charles Du Bellamy, for and during her life, and at her own disposal, and altogether independent of the control of her said husband, and in case she shall survive him, then I give and devise the said one-third part to my said sister, and to her heirs and assigns forever. But if my said sister should die before her said husband, leaving at the time of her death any child,

or children, then living, I do in that case, give and devise the aforesaid one-third part to such child or children, from and immediately after my said sister's decease, to the only proper use, and behoof of such child or children, and to his, her, and their heirs, and assigns forever, equally to be divided between them, as tenants in common.—And if it should so happen that my said sister Agatha, should, by surving her said husband, become seized of the fee simple, and absolute property of her share, and yet should die without making any disposition thereof, or in case her issue should become so vested, and should die under age, or without disposing thereof, or if my said sister should die in her husband's life time, leaving no child, or children; in either of these events, I give and devise the said share to my sister Elizabeth Livius, and to her heirs and assigns. And in like manner, if my said sister Elizabeth, should die without disposing of her share, and leaving no issue at the time of her decease, I give and devise her share to my sister Agatha, and her heirs and assigns forever. Lastly, I constitute and appoint Sir Charles Gould Knight, sole executor of this my last will, and I request that he will take this trouble upon himself, and accept of one hundred pounds, (to be paid out of my personal estate) as an acknowledgment of his friendship and attention to me upon many occasions. And I do authorize my said executor to sell and dispose of such real estate, as I may be entitled to in North America, or elsewhere, and to execute conveyances for the same, and also to place out my monies upon such securities as he shall deem proper, and in such manner and form, as to the shares devised to my said sister Agatha, and to my nephew, and niece, Samuel and Martha, respectively, as shall be conformable to the provisions I have above made, with respect to each of the said shares.

In witness whereof, I have to this my last will and testament, set my hand and seal, this fifteenth day of May, in the year of our Lord one thousand seven hundred and eighty-one.

MARTHA BRADSTREET. [SEAL.]

Signed, sealed, published, and declared by the said testatrix, as and for her last will and testament, in our presence, who have subscribed our names as witnesses thereto, in the presence of the said testatrix and of each other. The words '*The produce, income, and profits of,*' and following the word *devise* in the last line but one, of the first page, being first interlined. As also the words, '*or if my said sister should die in her husband's life time, leaving no child or children,*' after the word 'thereof' in the thirteenth line of the second page, as also the word May instead of April, in the last line of the last page:

SAMBROOK RUSSELL,
ABEL WILLIARD,
RICHM. WEBB.

26th March, 1782, Sir Charles Gould Knight, the sole executor named in the above will, was duly sworn before me.

WILL. MACHAM, Surrogate.

Messrs. STEVENS & DODWELL.

Testatrix was formerly of Boston, in North America, but late of the theparish of St. Mary le Bone in the county of Middlesex, and died this month.

Proved at London, the 30th day of March, 1782, before the worshipful William Macham, Doctor of Laws and Surrogate, by the oath of Sir Charles Gould Knight, the sole exor. to whom adm'on was granted, having been first sworn duly to adm'r.

SCHEDULE No. 6.

This indenture, made the nineteenth day of December, in the year of our Lord one thousand seven hundred and eighty-six, between Philip Schuyler, af the cityof Albany andcounty of Albany, Esquire, of the one part, and Rutger Bleecker, of the city aforesaid, Esquire, of the other part: *Whereas, the said Philip Schuyler is seized in his demesne as of fee, of and in three undivided fourth parts* of all that parcel of a certain tract of land, formerly situated in the county Albany, but now in the county of Montgomery, on both sides of the Mohawk river, granted by letters patent, under the great seal of the late colony of New York, bearing date the second day of January, in the year of our Lord one thousand seven hundred and thirty-four, to Joseph Warrel and others; which parcel of land aforesaid in comprehended in the following boundaries, to wit: Beginning at a certain place on the south side of the Mohawk river, and the west side of a brook called Sedaghgueda, where the said brook falls into the said river, and runs then south thirty-eight degrees west, two hundred and eleven chains and forty-one links; then south fifty-two degrees east, four hundred and eighty-three chains; thence north thirty-eight degrees east, four hundred and fifty-three chains and forty-one links; thence north fifty-two degrees west, four hundred and eighty-three chains; thence south thirty-eight degrees west, two hundred and forty-two chains, to the place of beginning; containing twenty-one thousand nine hundred acres: *And whereas, the said Rutger Bleecker is seized in his demesne as of fee, of and in one undivided fourth part of the said parcel of land above mentioned and described:* And whereas, the parties to these presents are inclined to make a division of the said parcel of land, to enable them to hold their several shares in severalty; and for facilitating the said partition and division, and to enable them to make the same with greater equality, the said parcel of land hath been laid into lots, which are respectively butted, bounded, and contain as follows: Lot number one begins in the middle of the Mohawk river, at the mouth of the Sedaghgueda creek, and runs thence north thirty-eight degrees east, two hundred and forty-two chains; thence south fifty-two degrees east, sixteen chains and nine links; thence south thirty-eight degrees west, to the middle of the Mohawk river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number two begins at the southwest corner of lot number one, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patient; thence south fifty-two degrees east, sixteen chains and

nine links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number three begins at the southwest corner of lot number two, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and thirty-nine links; thence south thirty-eight degrees west, to the middle of the stream; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number four begins at the southwest corner of lot number three, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sevneteen chains and one link; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number five begins at the southwest corner of lot number four, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, seventeen chains and twenty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number six begins at the southwest corner of lot number five, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, thirteen chains and thirty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number seven begins at the southwest corner of lot number six, and runs thence north thirty eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, thirteen chains and forty-five links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number eight begins at the southwest corner of lot number seven, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, fourteen chains and twenty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number nine begins at the southwest corner of lot number eight, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, fifteen chains; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of of the said river, to the place of beginning; containiug four hundred acres of land. Lot number ten begins at the southwest corner of lot number nine, and runs thence nort

thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and twenty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number eleven begins at the southwest corner of lot number ten, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, seventeen chains and twenty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hunded acres of land. Lot number twelve begins at the southwest corner of lot number eleven, and runs thence north thirty-eight degrees east, to the northeastermost boundaries of the said patent; thence south fifty-two degrees east, seventeen chains and seventy-seven links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number thirteen begins at the southwest corner of lot number twelve, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent, thence south fifty-two degrees east, seventeen chains; thence south thirty-eight degrees west, to the middle of the stream of the said river; thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number fourteen begins at the southwest corner of lot number thirteen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and ten links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river to the place of beginning; containing four hundred acres of land. Lot number fifteen begins at the southwest corner of lot number fourteen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and thirty links; thence south thirty-eight degrees west, the middle of the stream of the said river; and then up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number sixteen begins at the southwest corner of lot number fifteen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and ten links; thence south thirty-eight degrees west, to the middle of the stream of the said river; thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number seventeen begins at the southwest corner of lot number sixteen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, fifteen chains and twenty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river,

to the place of beginning; containing four hundred acres of land. Lot number eighteen begins at the southwest corner of lot number seventeen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and twenty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres. Lot number nineteen begins at the southwest corner of lot number eighteen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, sixteen chains and eighty-seven links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty begins at the southwest corner of lot number nineteen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty two degrees east, eighteen chains and fifty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-one begins at the southwest corner of lot number twenty, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, twenty chains and forty-five links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-two begins at the southwest corner of lot number twenty-one, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, twenty-one chains; thence south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-three begins at the southwest corner of lot number twenty-two, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, seventeen chains; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-four begins at the southwest corner of lot number twenty-three, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, eighteen chains and thirty-three links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-five begins at the southwest corner of lot number twenty-four, and runs thence north thirty-eight degrees east, to the northeastermost bounds

of the said patent; thence south fifty-two degrees east, eighteen chains and thirty-three links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-six begins at the southwest corner of lot number twenty-five, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, nineteen chains and eighty links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-seven begins at the southwest corner of lot number twenty-six, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, nineteen chains and ninety-five links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lot number twenty-eight begins at the southwest corner of lot number twenty-seven, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent; thence south fifty-two degrees east, twenty chains and forty-six links; thence south thirty-eight degrees west, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing four hundred acres of land. Lots No. one hundred and four, one hundred and five, and one hundred and six, begin in the middle of the stream of the said Mohawk's river, in the northwestern boundary line of the said tract, granted by the letters patent aforesaid, and run thence south thirty-eight degrees west, two hundred and eleven chains and forty-one links; thence south fifty-two degrees east, fifty-one chains and seventy-nine links; thence north thirty-eight degrees east, to the middle of the Mokawk's river; and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number one hundred and one, one hundred and two, and one hundred and three, begin at the southeast corner of lots number one hundred and four, one hundred and five, and one hundred and six aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, fifty-six chains and fifty-one links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and then up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number ninety-eight, ninety-nine, and one hundred, begin at the southwest corner of lots number one hundred and one, one hundred and two, and one hundred and three aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, fifty-three chains and twenty-two links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the middle of the

staeam of the said river, to the place of beginning containing one thousand two hundred acres of land. *Lots number ninety-five, ninety-six. and ninety-seven*, begin at the southeast corner of lots number ninety-eight, ninety-nine, and one hundred aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, forty-eight chains and seventy-seven links; thence noth thirty-eight degrees east, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number ninety-two, ninety-three, and ninety four, begin at the northeast corner of lots number ninety-five, ninety-six, and ninety-seven aforesaid; and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, forty nine chains and sixty-eight links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number eighy-nine, ninety, and ninety-one, begin at the southeast corner of lots number ninety-two, ninety-three, and ninety-four aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, forty-eight chains and six links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number eighty-six, eighty-seven, and eighty-eight, begin at the southeast corner of lots number eighty-nine, ninety, and ninety-one aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, forty one chains and twenty three links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number eighty-three, eighty-four, and eighty-five, begin at the southeast corner of lots number eighty-six, eighty-seven, and eighty-eight aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, forty-seven chains and eleven links; thence north thirty- eight degrees east, to the middle of the stream of the said river, and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number eighty, eighty-one, and eighty-two, begin at the southeast corner of lots number eighty-three, and eighty-four, and eighty-five aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, forty-three chains and ninety-fourlinks; thence north thirty eight degrees east, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. Lots number seventy-eight and seventy-nine begin at the southeast

corner of lots number eighty, eighty-one, and eighty-two aforesaid, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots; thence south fifty-two degrees east, twenty-eight chains and nine links; thence north thirty-eight degrees east, to the middle of the stream of the said river; and thence up the middle of the stream of the said river, to the place of beginning; containing one thousand two hundred acres of land. All which courses are to be run as the magnetic needle pointed in the year of our Lord one thousand seven hundred and sixty-two.

And whereas, the said Philip Schuyler did grant and convey the individed half of lots number three, number four, number eleven, number twelve, number nineteen, number twenty, number twenty-seven, and number twenty-eight, to the devisees of Peter Remsen, deceased.

And whereas, the parties aforesaid, after the division aforesaid, was made, balloted for the said lots, and upon such balloting, the lots number five, fourteen, sixteen, twenty-four, twenty-six, eighty-six, eighty-seven, eighty-eight, ninety-eight, ninety-nine, and one hundred; likewise number two, six, ten, eighteen, twenty-one, seventy-eight, seventy-nine, eighty-nine, ninety, ninety-one, *ninety-five*, *ninety-six*, *ninety-seven*, seven, thirteen, seventeen, twenty-three, twenty-five, eighty-three, eighty-four, eighty-five, one hundred and one, one hundred and two, one hundred and three, and the undivided half of number three, eleven, nineteen, and twenty-seven, and the north half of number one were drawn to and as and for the share and proportion of the said Philip Schuyler; and the lots number eight, nine, fifteen, twenty-two, eighty, eighty-one, eighty-two, ninety-two, ninety-three, ninety-four, one hundred and four, one hundred and five, one hundred and six, and the undivided half of number four, twelve, twenty, and twenty-eight, and the south half of number one, were drawn to and as, and for the share and portion of the said Rutger Bleecker.

Now, therefore, this indenture witnesseth, that to the end and intent that a full, perfect and absolute partition and division of the said lands so remaining undivided may be made, the said Rutger Bleecker doth *give*, *grant*, *assign*, *release*, *and confirm unto the said Philip Schuyler*, *all the said lots or parcels of lots above mentioned*, *drawn as aforesaid*, *as and for the share and portion of the said Philip Schuyler*, of and in the said tract of land; and all the estate, right, title and interest of the said Rutger Bleecker in or to the same, or which he ought to have of, in or to any part or parcel thereof; to have and to hold the said lots or parcels of lots last mentioned, unto the said Philip Schuyler, his heirs and assigns, to the only use and behoof of the said Philip Schuyler, his heirs and assigns, forever.

And the said Philip Schuyler doth give, grant and assign, release and confirm, unto the said Rutger Bleecker, all the said lots or parcels of lots above mentioned, drawn as aforesaid, as and for the share and portion of the said Rutger Bleecker, of and in the said tract of land; and all the estate, right, title and interest of the said Philip Schuyler in or to the same, or which he ought to have of, in or to any part or parcel thereof. To have and to hold the said lots or parcels

of lots last mentioned, unto the said Rutger Bleecker, his heirs and assigns, to the only use and behoof of the said Rutger Bleecker, his heirs and assigns, forever.

And the said Philip Schuyler and Rutger Bleecker, for themselves, their heirs, executors and administrators, do respectively covenant, promise, grant, and agree, to and with each other, that they or either of them have not done, committed or suffered any act, matter or thing, to alter, change, charge or defeat any of the lands hereby divided, or the estate by them to be held in the same, by virtue of these presents.

In witness whereof, the parties to these presents have interchangeably set their hands and seals, the day and year first above written.

RUTGER BLEECKER.
PH. SCHUYLER.

Sealed and delivered—

The word lot on the 9th line, thirty on the 13th, stream of the on the 34th, written on razure. The words, and thence down the middle of the stream of the said river, between 13 and 14 lines, interlined; the words, and thence on the 6th line; and that to the end and intent; the word aforesaid on the 23d line of the 2d page, obliterated; that on the 25th written on erazure, before execution—

in the presence of us,

VOLKERT P. DOUW.
STEPHEN VAN RENSSELAER.

Be it remembered, that on the first day of November, in the year of our Lord one thousand seven hundred and ninety-three, personally appeared before me, Jeremiah Lansingh, one of the masters in chancery for the State of New York, Stephen Van Rensselaer, who being duly sworn made oath, that he saw the within named Philip Schuyler and Rutger Bleecker execute the within written indenture respectively, as their respective act and deed, for the uses therein mentioned; and that he, the said Stephen Van Rensselaer and Volkert P. Douw, subscribed their names as witnesses to the execution thereof.

And having examined the same, and finding no material razures, interlineations or obliterations therein, except those noted, I allow the same to be recorded.

JER'H LANSINGH.

Clerk's office of the County of Herkimer, ss.

Recorded the within indenture in Liber B. of deeds, pages 237 and 8, the 28th day of Jan'y, 1795.

WM. LEAVENWORTH,
D. Clerk.

STATE OF NEW YORK,

Secretary's Office,

Recorded in book of deeds M R R, page 78, &c. the 24th day of November, 1810, at 4 o'clock, P. M.

BEN FORD,
Dep. Sec'ry.

SCHEDULE E.

"The people of the State of New York by the grace of God free and Independent; to all to whom these presents shall come, [L. S.] *greeting:*

Know ye that we having inspected the files of our court of chancery of our said State, do find a certain bill there remaining, which is in the words and figures following, to wit:

Filed 3d May, 1788. Lewis.

To the honorable Robert R. Livingston, Esquire, chancellor of the State of New York.

IN CHANCERY.

Humbly complaining shows unto your honor, your orator and oratrix, Charles John Evans of the city and State of New York, gentleman, and Agatha his wife, that John Bradstreet, Esquire, deceased, Major General in the army of his Britannic Majesty, the father of your oratrix, the said Agatha Evans, formerly resided for many years in the late Province but now State of New York, in the character of Deputy Quarter Master General to the forces of the said King, in America, and during that time lived upon terms of the greatest friendship and intimacy with Philip Schuyler, of the city and county of Albany, in the then Province but now State of New York, Esquire, by means whereof the said Philip Schuyler became entrusted with the affairs of the said John Bradstreet, who reposed the highest confidence in him, and relied entirely upon his prudence and justice."

"And your orator and oratrix do further show unto your honor, that the said John Bradstreet being in affluent circumstances whilst he so resided as aforesaid in the then Province of New York, not only lent large sums of money to the said Philip Schuyler, but made use of him as his agent and trustee, to place sundry other sums of money to a very large amount, at interest in his own name or the name or names of some other person or persons, but for the benefit of the said John Bradstreet, and to purchase sundry lands and tenements situate in different parts of the said Province, in the name of him, the said Phi-

lip Schuyler, or in the name or names of some other person or persons but in trust for the said John Bradstreet and his heirs and assigns, forever."

"And that very large sums of money belonging to the said John Bradstreet, were at different times deposited by the said John Bradstreet, with him, the said Philip Schuyler, as a trustee, to be employed in the several ways before mentioned, or in some other manner, for the benefit of the said John Bradstreet.

And your orator and oratrix do further show unto your honor, that the said John Bradstreet being possessed of a very considerable personal estate, and having a large real and personal estate so held in trust for him as aforesaid, did, on the twenty-fourth day of September, one thousand seven hundred and seventy-four, make and publish his last will and testament in writing, in the words and figures following, to wit:

This is the last will and testament of John Bradstreet, Major Genearl in his Majesty's army, as follows:

I revoke all former wills and testaments I appoint Col. Philip Schuyler to take all my books and papers, and to settle and transmit my public accts. to Charles Gould, Esq. of London, and I discharge the said Col. Schuyler from all demands and debts, except one thousand pounds currency, which shall be paid to Elizabeth Bradstreet, daughter to my wife. I devise the farm which I have a lease of in fee, and which is now possessed by Tonycliff, to John Bradstreet Schyuler, son to the said Col. Schuyler, and to his heirs and assigns forever, together with my arms, books, and apparel. I give all my carriages, horses and tackle, to Mrs. Schuyler, wife to the said Col. Schuyler.

The money due to me from Parson Johnson of Corrys Bush, by bond, I give to his daughter, Margaret Schuyler.

All the rest of my estate, real and personal, I devise and bequeath to my two daughters, equally to be divided between them as tenants in common fee; but I charge the same with the payment of one hundred pounds sterling per annum, to their mother during life.

Notwithstanding the former devise for the benefit of my wife and daughters, I empower my executors to do all acts and execute all instruments which they perceive to be requisite to the partition of my landed estate, and I devise the same to them as joint tenants, to be by them sold at such time and in such manner as they shall think most for the interest of my daughters, to whom the nett produce shall be paid in equal shares, the sum of one hundred pounds sterling per annum being first deducted, or a capital to secure the same set apart for an annuity to my wife as aforesaid.

I order that Doctor Bruce have one hundred pounds for his trouble, and his kindness to me. My watch I give to Mr. Gould, as a mark of my friendship. I leave funeral expenses to the discretion of my executors, and I appoint for the execution of this my will, the said Col. Philip Schuyler and William Smith, Esq. New York, who penned this will according to my dictate, while much indisposed, but in the enjoyment of my usual share of understanding."

"And your orator and oratrix do further show unto your honor, that soon after making and publishing the said last will and testament, the said John Bradstreet died; and that thereupon the said Philip Schuyler proved the said will, took upon himself the burthen of executing the same, and possessed himself of the said testator's money, and other personal estates, and of all his books, accounts and papers whatsoever, and that the said William Smith refused to take upon himself the burthen of executing the said will, and did not intermeddle with the said estate in any manner whatsoever."

"And your orator and oratrix being by virtue of the will aforesaid entitled to the one moiety of the residue of the real and personal estate of the said John Bradstreet, which in and by his last will and testament was devised and given to his wife and daughters, have frequently applied by themselves or their agents, in the most friendly manner, to the said Philip Schuyler, and requested him to give full and perfect accounts of the real and personal estate of the said John Bradstreet, and to pay and deliver to your orator, the said Charles John Evans, that proportion of the personal estate of the said John Bradstreet, to which he was entitled in right of your oratrix, the said Agatha, and to convey the one equal moiety of the real estate which he, the said Philip Schuyler, was seized of, or entitled to in trust for the said John Bradstreet in his life time, to the said Agatha Evans in fee simple, or such part of the said lands as the said Agatha was by law entitled to; and your orator and oratrix well hoped that the said Philip Schuyler would long before this time have complied with such their reasonable application."

"In tender consideration whereof, and forasmuch as your orator and oratrix are remediless in the premises by the strict rules of the common law, and can only be relieved by the aid of this honorable court, where matters of trust and confidence are properly cognizable, and forasmuch also as the matters herein before set forth rest in a great measure in the secret knowledge of the said Philip Schuyler, and your orator and oratrix can only discover the same by having recourse to himself and his confederates when discovered.

To the end therefore, that the said Philip Schuyler and his confederates when discovered, may, upon their several and respective corporal oaths, true, full and perfect answer make to all and singular the premises, as particularly as if the same were here again repeated, and they thereunto interrogated; and more especially that they may set forth and discover whether the said John Bradstreet in his life time did not intrust the said Philip Schuyler with sundry or any, and what sums or sum of money, to be placed out at interest or employed in the purchase of land, or in any other and what manner, for the benefit of the said John Bradstreet."

"And what purchase or purchases of lands, tenements or real estate have been made by the said Philip Schuyler, as a trustee for the said John Bradstreet, or with the money of the said John Bradstreet, and at what time or times."

"And that he may also by decree of this court be directed to convey the one moiety of the said real estate to your oratrix, the said

Agatha Evans, in fee simple, or that such other conveyances and disposition of the said real estate may be made as your honor under all the circumstances of the case shall think proper.

And that your crator and oratrix may have such further or other relief in the premises as their case may require, and shall be agreeable to equity and good conscience; may it please your honor to grant unto your orator and oratrix the most gracius writ of Subpoena of the people of the State of New York, to be directed to the said Philip Schuyler, thereby commanding him at a certain day, and under a certain pain therein to be inserted, personally to be and appear before your honor, in this honorable court, then and there to answer the premises, and to stand and abide such order and decree therein as to your honor shall seem agreeable to equity and good conscience.

And your orator shall ever pray.

HARISON,
Solicitor and of counsel for the complainants.

All which we have caused by these presents to be exemplified and the seal of our said court of chancery to be hereunto affixed.

Witness Samuel Jones, chancellor of our said State, at the city of New York, this twenty-first day of November, in the year of our Lord one thousand eight hundred and twenty-seven, and of the Independence of the United States of America the fifty-second.

JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, chancellor of the State of New York, do hereby certify, that the seal affixed to the preceding exemplification, is a true impression of the seal of the court of chancery of said State; that John L. Lawrence, whose name is subscribed to the attestation of the said exemplification, is the assistant register of said court, and that the said attestation is in due form.

Dated Albany, 14th January, 1828.

S. JONES."

SCHEDULE F.

" The people of the State of New York, by the grace of God, free and independent, to all to whom the presents shall come greeting:

[L. S.] Know ye, that we having inspected the records of our court of chancery, of said State, do find a certain answer therein remaining, which is in the words and figures following, to wit:

IN CHANCERY.—STATE OF NEW YORK.

The answer of Philip Schuyler of the city of Albany, in the county of Albany, defendant to the bill of complaint of Charles John Evans, of the city and State of New York, gentleman, and Agatha his wife.

This defendant, now and at all times hereafter, saving and reserving to himself, all and all manner of benefit and advantage of exception, that may be had or taken to the many errors, uncertainties, and manifest insufficiencies in the complainant's said bill of complaint contained, for answer thereto, or unto so much thereof as this defendant is advised, is material or necessary for him to make answer unto, he answereth and saith, that true it is that the said John Bradstreet, in the said bill of complaint named, formerly resided, or was employed for a number of years, in the then province, now this State of New York, in the office or capacity of deputy quarter master general, to the forces of his Brittanic Majesty in America, during the whole or the greatest part of which time, until the death of the said John, this defendant lived upon terms of the greatest friendship and intimacy with him; and this defendant further saith, that he was, during several years of that period, employed as one of the deputies or assistants of the said John, in his said office, and in that capacity transacted for him a great variety of business. And this defendant further answering saith, that over and above the business done by him for the said John, in his official said station, and after the expiration of the said office of this defendant, which ended in or about the year one thousand seven hundred and thirty-six, this defendant assisted the said John in settling his public accounts, and in paying moneys, owing by him in relation to his said office, and was also occasionally entrusted with some of the private affairs of the said John, which will be hereafter particularly explained, so far as they have, in any wise, relation to the matter in said bill of complaint charged. And this defendant further answering, doth say, that sometime in or about the month of March, in the year one thousand seven hundred and thirty-six, this defendant received from Thomas Gage, Esq. then commander-in-chief of his Brittanic Majesty's troops in North America, on the behalf of the said John, sundry setts of bills of exchange, all which are duly accounted for, in the account and statement aforesaid, parcel of which said bills, amounting to one thousand four hundred and seventy-six pounds, thirteen shillings and four pence, sterling, this defendant did put or place in the hands of one Beverly Robinson, formerly of the county of Dutchess, Esquire, now attainted, and banished from this State, by force of an act, entitled "An act for the forfeiture and sale of the estates of persons, who have adhered to the enemies of this State, and for declaring the sovereignty of the people of this State, in respect to all property within the same," passed the twenty-second day of October, in the year one

thousand, seven hundred and seventy-nine, with instructions to the said Beverly Robinson to sell the said bills, on account of the said John, and to credit the said John with the neat proceeds thereof, and with a promise from this defendant, that he would request the said John to permit the said Beverly to keep the said money at interest, by way of loan, in case the said John had not an immediate use for the same, whereof, this defendant shortly thereafter did inform the said John who entirely acquiesced in the disposition of the said bills, and the said Beverly Robinson did afterwards render an account to the said John of the sale and proceeds of the said bills, which, as credited by him to the said John, amounted to two thousand six hundred and fifty-three pounds, eleven shillings and eight pence, of current money of New York, and *and* at another time transmitted to the said John, together with an account current between the said Beverly and the said John, including a credit for the said bills, a bond or obligation from the said Beverly to the said John, conditioned for the payment of two thousand and ninety-five pounds, seventeen shillings and seven pence half penny, of like money aforesaid, as and for the balance of the said account, which bond is noted in one of the inventories of the personal estate of the said John, hereinafter mentioned, in part whereof the said Beverly paid to this defendant, as executor of the said John, on or about the seventeenth day of December, in the year one thousand seven hundred and seventy-six, in the bill of credit emitted by Congress, commonly called continental money, the sum of three thousand, two hundred and fifty dollars, and the further sum of one thousand and ninety dollars, on or about the seventeenth day of February, in the year one thousand seven hundred and seventy-seven, in the like bills of credit, amounting together to four thousand three hundred and forty dollars, which sum, the defendant in the same year one thousand seven hundred and seventy-seven, placed on loan, in the loan office of the United States, in the city of Albany, for the amount whereof this defendant took certificates, in his own name, and has since accounted for the same to the representatives of the said John, or some of them together, with the product of five year's interest received thereon, will more fully appear by an account current between this defendant and the representatives of the said John, delivered to the said Charles, one of the complainants, in or about the month of February, in the year one thousand seven hundred and eighty-four, copy whereof, in the schedule, hereunto annexed, marked B, this defendant prays may be taken as part of this his answer; and this defendant further answering, saith, that he hath since payed the amount of the said certificates, and a considerable overplus, in certificates, partly to the said Charles, and partly to Messrs. Ludlow and Goold, of the city of New York, merchants, attorneys to Sir Charles Gould, of London, in the kingdom of Great Britain, who is the executor of the last will and testament of Mary Bradstreet, widow, and Martha Bradstreet, daughter, both devisees of the said John, as by another account, in the schedule, hereunto annexed, marked C, copy whereof hath been delivered sometime in the year one thousand seven hundred and eighty-seven, to the said Ludlow and

Goold, which this defendant prays may also be taken as part of this his answer, which will *more* more particularly appear.

And this defendant further answering, saith, that sometime in or about the month of July, in the year one thousand seven hundred and seventy-two, divers tracts of lands having been advertised for sale, for the payment of quit rents, pursuant to an act of the late colony of New York, entitled, an act for the more effectual collecting of his Majesty's quit rents, in the colony of New York, and for partition of the said lands therein, passed the eighth day of January, in the year one thousand seven hundred and sixty-two. This defended proposed to the said John, to become a partner with this defendant and others, in the purchase of the said lands, to which the said John agreed, and this defendant for himself and in behalf of the said John, together with the persons named in the schedule, hereunto annexed, marked D, (which this defendant prays may be also taken as a part of this his answer,) having purchased at public auction the several quantities of land, specified in the schedule marked D, (together with one other quantity of land, belonging to the heirs of Sir Peter Warren, which, at the special request of the said John, was shortly after released, by the parties interested in the purchase thereof, to Oliver De Lancy, then of the city of New York, Esquire, for the benefit of the said heirs,) the said John paid by and through the hands of this defendant, for his share of the land, so purchased, the sum of nine hundred and fifty-one pounds, fourteen shillings and three pence, of like current money aforesaid, and at the same time lent to this defendant, on his own proper account, the sum of one thousand three hundred pounds, which sum was applied by this defendant towards the payment of his own share, and the share of John M. Scott, another of the partners in the land so purchased, as aforesaid. And this defendant doth aver, that he, at the time of the said transaction, gave credit to the said John, in account with this defendant, for the said one thousand and three hundred pounds, as a loan to this defendant, and that the said sum formed one of the items, constituting the sum hereinbefore stated to have been due and owing from this defendant to the said John, on or about the said twenty-fourth day of July, in the year one thousand seven hundred and seventy-two. And this defendant admits that he doth hold or claim in trust, for the representatives of the said John, or for the purposes of the will of the said John, the proportions of the said purchases, specified in the said schedule marked D.

And this defendant furthering answering, saith, that the said John having declined being known in the transaction aforesaid, the interest of the said John therein, was covered under the name of this defendant; and this defendant understood from the said John, that his reason for declining to be known in the said purchase was, that he was apprehensive that the same might give offence to the Duke of Grafton, who, or some of his family was, or was supposed to be interested in parcel of the said lands in the manner of Cosby. And this defendant doth aver, that, except the lands in the said schedule last mentioned, he hath never held or claimed, neither doth he now hold or

claim, any lands, or tenements, or real estate whatsoever, in trust for the said John, and that, except the purchases hereinbefore acknowledged to have been made, this defendant hath never, directly or indirectly, been employed or made use of by the said John, to purchase any lands, or tenements, or real estate whatsoever, in trust for him, or to his use, and hath never received from him any moneys for any such purpose.

The personal estate in Mr. Schuyler's hands appears to him amply sufficient to discharge any just claims on the estate, unless there should be claims in Europe, of which he is not advised. A claim is made by Henry Glen, and others, amounting to £1800 and upwards, from the inattention of General Bradstreet, in his latter years, it does not appear from receipts *taken by him*, that the account is discharged. Payments were however made by the general, and accounts settled with Mr. Glen, and receipts given by individuals, by which it clearly appears, all or nearly all was paid; but these papers will not suffice to extinguish the debt, unless Mr. Schuyler's testimony can be given, hence arrises this question: Can Mr. Schuyler give his testimony, if he is arrested as an executor; can he give his testimony if the contest be referred to arbitrators? If he cannot, what course must he pursue, that he may give his testimony? Does the bill oblige Mr. Schuyler to sell the sundry estates? And this defendant further saith, that at the time the said case was delivered to the said Samuel Jones, there was still a specie balance in the hands of this defendant due to the estate of the said John, of four hundred and twenty pounds twelve shillings, and seven pence half-penny, and also a balance of seventeen hundred and thirty-six pounds in certificates of the United States, commonly called Loan office certificates, with interest thereon from the tenth day of September, in the year one thoasand seven hundred and eighty-two, besides the bonds payable on the contingency aforesaid *aforesaid*, and the demand *and the demand* against the said Beverly Robinson, which, according to this computation of this defendant, then amounted, with interest, to one thousand, seven hundred and seventy-seven pounds, seventeen shillings, wherefore this defendant then still supposed, that the personal estate of the said John in his hands, would be sufficient to satisfy all just claims upon said estate of the said John. And this defendant thinks it probable that he may have made similar declarations to the said Charles, the complainant, concerning the sufficiency of the said personal estate, but he doth not believe that he hath at any time made any stronger declaration, either verbally or in writing concerning the same. And this defendant further saith, that the second declaration which he recollects to have made of the import of effect aforesaid, was contained in a certain case, stated and submitted to Samuel Jones of the city of New York, Esquire, Counsellor at Law, some time in the month of February, in the year one thousand seven hundred and eighty-four, whom this defendant then considered as of counsel for the representatives of the said John, which said case, is in the words and figures following to wit: Major General John Bradstreet, died in September 1774, at New York, leaving No. 1. a will dated September 23, 1774.

On this will administration was granted to Phillip Schuyler, in September 1774. No. 2, a will made by the said Bradstreet on the 10th November, 1754. On this will administration was granted to Sir Charles Gould, in November, 1774, by the arch bishop of *of* Canterbury. General Bradstreet died, leaving two daughters, Martha, and Agatha, the latter now married to Charles John Evans, Esquire. Martha died 22nd March, 1782, in England, leaving No. 3, a will dated 15th May, 1781. General Bradstreet left personal estate in England, personal estate in America, together with some real estate legally conveyed to him. A real estate held under Indian deeds, and one-quarter part of sundry estates, purchased by Phillip Schuyler, and others, the legal title of which quarter part is in Phillip Schuyler, he never having released or conveyed to the said John Bradstreet, or his heirs, but intends to do it in such manner as the law directs, and has signified his intention to the heirs. On these Wills, he proposes the following questions. 1st. Does the will No. 2, authorize Sir Charles Gould to hold the estate in England as executor, appointed by that will. 2nd, If he does not, seeing he has it in his hands, will Mr. Schuyler be justified if he does not attempt to obtain it for the heirs of General Bradstreet, and Martha, his daughter. 3rd, Mr. Schuyler earenstly wishes to put the several heirs into the possession of the estate; how can this be done with safety to himself, and in conformity to the said will No. 1.

And this defendant further answering, doth admit that the said John Bradstreet, at or about the time in the said bill of complaint, for that purpose suggested, did make such last will and testament as is therein set forth, but this defendant, for greater certainty, begs leave to refer to the original thereof, in and among the records of the court of probates of this State of New York, also the probate thereof in the custody of this defendant, and ready to be produced as your honor shall direct; and that the said John, soon after making such last will and testament, died, that is to say, on or about the twenty-fifth day of September, in the year one thousand seven hundred snd seventy-four, at the city of New York. And this defendant doth further admit, that this defendant, being named as executor in the said will, together with the said William Smith, did, shortly after the death of the said John, cause his said will to be proved in due form of law, and did take upon himself the burden of executing the same, and that the said William Smith hath not qualified as executor of the said will, and hath no otherwise, to the knowledge and belief of this defendant, intermeddled with the estate of the said John, than by taking, on or about the twenty-seventh day of September, in the year one thousand seven hundred and seventy-four, being two days after the death of the said John, together with this defendant, the inventory copy whereof, in the schedule, hereunto annexed, marked E, this defendant also prays may be taken as part of this his answer, and to which, for greater certainty, he refers himself. And this defendant doth further admit, that the said William Smith, after the death of the said John, and before the time for that purpose in the said bill of com-

plaint mentioned, did remove from this State, and at that time was, and ever since hitherto hath been absent from the same.

This defendant hath understood, and verily *believe* that *they* were large sums of money in the funds of Great Britain, and otherwise in that kingdom, belonging to the said John, which were taken possession of by Sir Charles Gould of the said kingdom of Great Britain, by virtue or color of a certain will and testament of the said John, left in the said kingdom of Great Britain, but made prior to the one hereinbefore mentioned, and, as this defendant is advised, revoked thereby. But this defendant, nevertheless, hath not taken any measures to get said moneys out of the hands of the said Sir Charles Gould, because this defendant hath understood, that his holding and administering the same was agreeable to, and approved by the said Mary Bradstreet, widow of the said John, in her lifetime, and by the said Mary [Martha] Bradstreet, one of the daughters and devisees of the said John, in her life time, and by the said Charles and Agatha, the complainants, and because this defendant hath also been informed, and doth verily believe, that the said Mary Bradstreet, the widow, sometime in or about the 31st day of March, in the year one thousand seven hundred and eighty-two, departed this life, and that the said Martha Bradstreet, sometime in or about the twenty-second day of March, in the year last aforesaid, departed this life, and that the said Mary and Martha, before their deaths respectively, did respectively duly make their last wills and testaments, and therein, and thereby did respectively constitute the said Sir Charles Gould, the sole executor of these said respective last wills."

"And this defendant further answering saith, that since the statement and delivery of the said case, to the said Samuel Jones, he hath advanced and paid to the said Charles, the complainant, on account of the said estate, the sum of six hundred and eighty pounds, five shillings, and four pence, and to certain creditors of the said estate, the further sum of one hundred and seventy-six pounds nineteen shillings and an half penny, making together the sum of eight hundred and fifty-seven pounds, fourteen shillings, and four pence half penny, of current money aforesaid, in specie or the equivalent thereof, whereby this defendant hath become in advance, for the said estate, the sum of four hundred and thirty-six pounds, eleven shillings, and nine pence, of current money aforesaid. And this defendant hath also, since the said time of the said delivery of the said case, not only paid to the said Charles, the complainant, and to Messrs. Ludlow and Gould, of the city of New York, merchants, attorneys to the said Sir Charles Gould, executor of the said Mary and Martha Bradstreet, deceased, the full amount of the said one thousand seven hundred and thirty-six pounds, and the interest thereon, then in the hands of the defendant, in the certificates aforesaid, but hath also advanced to them a further sum, in certain certificates, amounting to eight hundred and seventy-four pounds."

"And this defendant doth aver, that he has offered part of the said real estate for sale, at the written request of the said Charles, the complainant, to the end that the moneys arising therefrom, might be

paid to him in right of his said wife, and hath also very lately referred divers persons who have applied to him to purchase parts of the said real estate, to the said Charles, and the said Messrs. Ludlow and Gould, informed the said persons, that he would confirm whatever agreement they should respectively enter into with the said Charles, and the said Ludlow and Gould, whence this defendant hopes it will sufficiently appear, that he hath had no design of prejudicing the representatives of the said John, by improper or precipitate sales of the said lands.

And this defendant desirous of acquitting himself of the trust reposed in him, by the will of the said John, delivered the said Samuel Jones the state of the case hereinbefore mentioned, for the purpose of obtaining his opinion about the means of doing the same, with safety to this defendant, to which the said Samuel Jones returned an answer in the words and figures following, to wit:

Answer. I am of opinion, that the will made by General Bradstreet, in 1754, is revoked by his last will, made in 1774, and is therefore void. It was the duty of the acting executor of the last will, to endeavor to get the money from Sir Charles Gould, and apply it according to the will. But this he could not do, without proving the last will of General Bradstreet in England, and taking out letters testamentary upon it there. As the executors were not in England, either of the residuary legatees, upon proving the will, might have had letters of administration upon the estate of General Bradstreet in England, with his will annexed, during the absence of the executor, and such administrators would have been entitled to recover the money of Sir Charles Gould, and this I think is yet the only regular method to be pursued; Mr. Schuyler cannot put the heirs into possession of the estate. He must sell the real estate according to the will, and collect the personal estate, and after paying the debts, and particular legacies, pay one-half the residue to Mr. Evans, in right of his wife, and the other half to the executor of Martha Bradstreet. If Mr. Schuyler is sued as executor he cannot be admitted as witness in the cause. Perhaps he might, by arbitrators, a case of a reference. But I would advise a reference between the legatees and Mr. Glenn, and then, I think, Mr. Schuyler will be an unexceptionable witness.

SAMUEL JONES.

NEW YORK, 3*d March*, 1784.

(As by the same answer, which appears to this defendant to be in the hand writing of the said Samuel, and ready to be produced, as your honor shall direct, will more certainly appear.) And this defendant, in further pursuance of his desire to execute the said trust, have since caused a division to be made of the said lands purchased by this defendant, at vendue aforesaid, except parcel thereof, for which defendant have never received any deed, for which there is a suit now depending in this honorable court, between this defendant and Henry Ten Eyck, the then sheriff, of whom the same was purchased, previous to which division a map was made of the lands to be divided, and the lots drawn by indifferent persons to each proprietor, and designated on the said map, copies whereof, and of a memorandum of the

making thereof subscribed by the parties, were, to the best of this defendant's recollection, sometime in January or February, one thousand seven hundred and eighty-seven, delivered by this defendant to the said Charles, the complainant, or the said Ludlow and Gould, whereby it will appear, that the lots drawn by the said John are designated in his name, and which this defendant hopes will serve as a further proof of the readiness of this defendant to appropriate the same to the use of the representatives of the said John, whenever a safe method could be devised for effecting the same.

And this defendant further answering, saith, that after various consultations about some safe mode of finally settling the estate of the said John, in a manner that would be safe to this defendant, and agreeable to his representatives, and which always, from the opinions of counsel learned in the law, presented no small embarrassment and difficulty, this defendant, in concert with the said Charles, the complainant, and the said Ludlow and Gould, as attorneys to the said Sir Charles Gould, put into the hands of the said Samuel Jones, and Richard Harrison, and Alexander Hamilton, of the city of New York, counsellors at law, some or one of them, the said last will and testament of the said John, together with copies of the said last wills and testaments of the said Mary and Martha Bradstreet, and a power of attorney, from the said Sir Charles Gould, as executor to the said Mary and Martha, to the end that they might jointly consider and devise some proper mode for making a settlement of the estate of the said John, and securing this defendant, as far as might be practicable, from all risk therein, by reason of his executorship aforesaid, in consequence whereof, this defendant, sometime in or about the month of November, in the year one thousand seven hundred and eighty-six, received a letter from the said Alexander Hamilton, bearing date the twentieth day of the same month, November, in the year last aforesaid, of which the following is an abstract:

I have considered, with Mr. Harrison and Mr. Jones, a method of settling Bradstreet's affairs in the safest method for you: it is that you sell his interest in the lands, which by a late act of the Legislature you are competent to. Mr. Ludlow may and will become the purchaser; the price is not material, but for greater caution, it will be best to agree upon such a price as lands now sells for in the market. The sale will convert the interest into personal estate. Then Evans can represent his wife, and Sir Charles Gould the rest of the parties, as executor of the two wills, and a settlement will of course be easy. As to debts Ludlow and Gould will engage to indemnify you, as far as the share paid to them, by behalf of Sir Charles Gould, will go. And Evans, if you think it worth while, will give his bond. Considering the little probability that debts, to any extent, exist, I think this kind of security may suffice, and as to a division of the lands so far as to separate your interest, it can be made by agreement between you and the purchasers, say Mr. Ludlow. This plan has been approved by Mr. Jones and Mr. Harrison, and seems to me free from any material objection. As by reference to the said letter, in the hands of this defendant, and ready to be produced, as your honor

shall direct, will more certainly appear, and this defendant doth aver that he was ready and willing to comply with the mode mentioned in the said letter, and did signify such, his willingness, to the said Charles, and Ludlow and Gould, or some or one of them, and this defendant being in the city of New York, in the winter following the receipt of the said letter, was informed by the said Ludlow and Gould, or one of them, that they would not consent to secure this defendant for any debts he might hereafter be obliged to pay, as executor to the said John, beyond the proportion of such debts to the shares of the estate to the said John, which the said Sir Charles Gould represented or claimed, wherefore it become advisable for this defendant to require of the said Charles, the complainant, some competent security for the proportion of the said debts, which would be justly chargeable on the share of his said wife, and this defendant did accordingly require of the said Charles such security as aforesaid, (this defendant not thinking the personal security of the said Charles sufficient for that purpose.")

And this defendant doth further deny, that he ever purchased or became seized of, or entittled unto any real estate whatever, in or near the city of Albany, or in or near Schenectady, or elsewhere, in trust for the said John, except as hereinbefore stated; and that he did never, as a trustee for the said John, but in his own name, or in the name or names of any other person or persons, place any sum or sums of money at interest, upon bond or mortgages or assignments thereof, or in any other manner, except as aforesaid: And that he had any sum or sums of money in his possession, deposited with him merely as a trustee, to be applied and employed for the benefit of the said John, except as aforesaid. And this defendant hoping to be satisfied out of the said trust estate in his hands, for his said advances to the said representatives of the said John, doth hereby declare himself ready to proceeed in the further execution of the trust reposed in him by the said John, in such manner as this honorable court shall direct, being indemnified therein. And this defendant denies all unlawful combinations and confederacy in the said bill charged, without that, that any other matter or thing material or necessary for this defendant to make answer unto, and not herein or hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true. All which matter and things this defendant is ready to aver and prove, as this honorable court shall direct and award, and humbly prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

PH. SCHUYLER.

Sworn this third day day of March, 1789, before me.

JERH. LANSING,

One of the Masters in Cancery, for the State of New York.

ALEXANDER HAMILTON,

Solicitor and of Counsel for Defendant.

C.

DR. The Estate of the late General Bradstreet in account current with Philip Schuyler the Executor for monies received in Continental Paper Money. *CR.*

1784. September 13th. To three loan office certificates for 600 dollars each, dated September 10th, 1777, and on which the interest to the 10th September, 1782, was paid as for specie account DD to Charles John Evans, Esqr. 1800, £720

To one ditto to ditto dated the 6th June, 1777, and on which the interest was paid to the 10th September 1782 for 400 dollars, 160

1786. January 6th. To 4 ditto for 600 dollars each dated the 6th June, 1777, on which the interest to the 10th September 1782, was paid DD to Messrs. Gould & Ludlow, 2,400 dollars, 960

To balance from the other side to be paid in Loan office certificates issued from the continental loan office within this State, at any time prior to the first day of September, 1777, and bearing interest from the tenth day of September 1782, for 600 dollars, 104

1786. January 6th. To six loan office certificates fo 300 dollars, each dated February 1st, 1799, to be paid in loan office certificates issued from the continental loan office within this State of that date, and bearing interest from that date, 1,800 dollars, £720

Or these two sums may be discharged the first by paying 1-5 of the interest to the first day of January, 1785, in paper money of this State or specie, and the remaining 4-5 of that interest in certificates signed by Gerard Bancker for interest payable the 1st day of May, 1787, and the principal in his certificates bearing interest to be paid annually, from the first January, 1785. The second sum, when reduced to specie value, by the continental scale of depreciation, may be settled in like manner.

March 10th, 1787. Errors excepted. PH. SCHUYLER.

1776. December 7th. By 3,250 Dollars continental paper money, received from Beverly Robinson, Esqr. and loaned to the United States on the September 1777, and for which the interest has been received by me in bills on France to the 10th September, 1782, and credited to the said estate, £1,300

1777.

February 17th. By 1,090 Dollars, do do. 436

Balance carried to a new account, 104

D.

Besides the lands noted in my inventory of the late General Bradstreet's estate, the 5000 acres petitioned for as a field officer having served in America during the late war, and the lands purchased from the Oneida Indians in 1768, the deed for which is lodged in the Secretary's office. The heirs of General Bradstreet are entitled to the following lands.

In the patent granted January 2d, 1734, to Joseph Worrel and 10 others, 22,000 acres about 21,850 whereof bought by the General John M. Scott, Esqr. Rutger Bleeker, Esqr. and myself, the heirs of the General are entitled to about 5,462 acres - - - 5,462 acres.

In the patent of the same date, to John Lyne, and nine others, for 20,000 acres about 19,500 bought by me as aforesaid - - - - 4,875 acres.

In the three tracts at the deep kiln, granted May 19th 1737 to David Abraham Schuyler and five others for 11,500 acres, I bought about 11,500 the heirs of the General entitled to about - - - 2,875 acres.

In the patent called Waggoner's patent granted Novemr. 4th, 1741, to John Groesbeck and eight others, for 17,000 acres, bought by the General J. M. Scott, Rutger Bleecker, Jacob C. Ten Eyck and Volkert Peter Dow Esqs. and myself, we being brought 16,950 acres but as part was immediately returned to Waggoner and others their shares the heirs of General will probably have about - - - - - - 2,000 acres.

Note.—Some small part of the three first mentioned tracts the purchasers also agreed to release on repayment of a proportion of the purchase money with interest; so that the heirs of the late General Bradstreet will have in the whole between fourteen and fifteen thousand acres which I am to release unto them and in case of my death my heirs are to do it.

ALBANY, *November* 29, 1774.

PH. SCHUYLER."

All of which we have by these presents exemplified and the seal of our said court of chancery hereunto affixed.

Witness Samuel Jones, chancellor, of our said State at the city of New York, this seventh day of May in the year of our Lord one thousand eight hundred and twenty-seven, and of the independence of the United States of America the fifty-first.

A copy. JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, chancellor of the State of New York, do hereby certify that the seal annexed to the preceding exemplification, is a true

impression of the seal of the court of chancery of said State; that John L. Lawrence whose name is subscribed to the attestation of the said exemplification is the assistant Register of said court, and that the said attestation is in due form.

S. JONES."

Dated ALBANY, 14*th January*, 1828.

SCHEDULE G.

"The people of the State of New York, by the grace of God free
[SEAL.] and independent, to all to whom these presents shall come, greeting:

Know ye, that we, having inspected the files of our court of chancery of our said State, do find certain interrogatories, with commission, and the oaths of the commissioners and clerk, and deposition of of Wm. Smith attached, there remaining, which is in the words following, to wit:"

"Deposition of the honorable Wm. Smith, of the city of Quebec, in the province of Lower Canada, Esquire, a witness produced, sworn, and examined, on the twenty-third day of July, in the year of our Lord one thousand seven hundred and ninety-three, at the house of the honorable William Smith, Esquire, situate in the said city of Quebec, by virtue of a commission, issuing out of the court of chancery in the State of New York, to us, Simon Frazer, John Blackwood, and John Collins, Esquires, and others, directed for the examination of witnesses in a cause there depending, wherein Charles John Evans and Agatha his wife are complainants, and Philip Shcuyler, Esquire, defendant, on the part of the complainants. We, the acting commissioners under the said commission, and also the clerk by us employed, in taking, writing, transcribing, and engrossing the said deposition, having first duly taken the oaths annexed to *to* the said commission, according to the tenor and effect thereof, and as thereby directed."

"Fourth. To the fourth interrogatory this deponent saith, that about July, one thousand seven hundred and seventy-two, John Morin Scott, Esquire, then just returned from Albany, informed this deponent, by a note or letter, that while there "a number of Patents were sold for payment of quit rents, among these Warren's tract, near Fort Hunter, the two tracts of Cosby, the tract commonly called Wagonaer's tract, and three tracts at the Deep Kill, by Mr. Schuyler himself, and some others in company, and that they desired the deponent to be detained for them; that the deponent understood, but in what way informed he does not recollect, that General Bradstreet was one of the company, and that he advanced Mr. Scott's part of the purchase money."

(Endorsed) "7th October, 1793, upon the oath of Maturin Livingston, Esq. before James M. Hughes.

JOHN W. WATKINS,
Compt's clerk.

All which we have caused by these presents to be exemplified, and the seal of our said court of chancery to be hereunto affixed.

Witness Samuel Jones, Chancellor of our said State, at the city of New York, the twenty-first day of November, in the year of our Lord one thousand eight hundred and twenty-seven, and of the independence of the United States of America the fifty-second.

JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, Chancellor of the State of New York, do hereby certify that the seal affixed to the preceding exemplification, is a true impression of the seal of the court of chancery of said State; that John L. Lawrence, whose name is subscribed to the attestation of the said exemplication, is the assistant register of said court; and that the said attestation is in due form.

S. JONES."

Dated Albany, 14th January, 1828.

SCHEDULE H.

"This indenture, made the sixteenth day of May, in the year of our Lord one thousand seven hundred and ninety-four, between Philip Schuyler of the county of Albany, in the State of New York, esquire, executor of the last will and testament of John Bradstreet, deceased, and hereinafter mentioned, of the one part, and Agatha Evans, of the city of New York, in the said State of New York, widow, one of the daughters of the said John Bradstreet, deceased, and Edward Goold, of the same place, merchant, attorney to Sir Charles Goold, knight, the only executor of the last will and testament of Martha Bradstreet, deceased, the other daughter of the said John Bradstreet, of the other part: *whereas*, the said John Bradstreet, formerly a Major General in the army of the king of Great Britain, being of sound and disposing mind and memory, did, on or about the twenty-third day of September, in the year of our Lord one thousand seven hundred and seventy-four, make and publish his last will and testament, in due form of law, in the presence of three credible witnesses, and after certain legacies and bequests in the same contained, did thereby devise and bequeath all the rest of his estate, real and personal, to his two daughters, equally to be divided between them as tenants common, in fee, but charged the same with the payment of one hundred pounds sterling to their mother during life, and did further, in and by the said will, notwithstanding the former devise for the benefit of his wife and daughters, empower his executors to do all acts, and execute all instruments, which they may conceive to be requisite to the partition of his landed estate and devised, the same to them as joint-tenants, to be by them sold, at such time, and in such manner as they should think most for the interest of his daughters, to whom the net proceeds was directed to be paid in equal shares, the sum of one hundred pounds sterling per annum, being first deducted, or a capital to secure the same, set apart an annuity to his wife, as aforesaid, and

appointed for the execution of the said will, the aforesaid Philip Schuyler, and William Smith, Esquires, of New York, as in and by the said last will and testament, or the registry thereof in the probate office of the State of New York, reference being thereunto had may appear: *And whereas*, the said Philip Schuyler, was, at the time of the making the said will, and from thence to the decease of the said John Bradstreet, seized in fee, as a tenant in common, of an in two equal undivided fourth parts of and in all that parcel of a certain tract of land formerly situate in the county of Albany, but now in the county of Herkimer, on both sides of the Mohawk river, granted by letters patent under the great seal of the late colony of New York, bearing date the second day of January, in the the year of our Lord one thousand seven hundred and thirty four, to Joseph Worrell and others, which parcel of land aforesaid, is comprehended in the following boundaries, to wit: Beginning at a certain place on the south side of the Mohawk river, and the west side of a brook called Sedaghqueda, where the said brook falls into the said river, and runs south then thirty-eight degrees west, two hundred and eleven chains and forty-one links; thence south fifty-two degrees east, four hundred and eighty-three chains; thence north thirty-eight degrees east, four hundred and fifty-three chains and forty-one links; thence north fifty-two degrees west, four hundred and eighry-three chains, thence south thirty-three chains; thence south thirty-eight degrees west, two hundred and forty-two chains to the place of beginning; containing twenty-one thousand nine hundred acres, as to one equal undivided fourth part of which said tract of land, the said Philip Schuyler was seized in trust for the said John Bradstreet, as aforesaid: *And whereas*, the said Philip Schuyler, at the time of making the said will, and from thence to the decease of the said John Bradstreet was also seized in fee, as a tenant in common, of and in one equal undivided moiety or half part of and in all that parcel of a certain tract of land formerly situated in the county of Albany, but now in the county of Herkimer, on both sides of the Mohawk river, granted by letters patent, under the great seal of the late colony of New York, bearing date the second day of January, in the year of our Lord one thousand seven hundred and thirty-four, to John Lyne and others, which parcel of the tract aforesaid, is comprehended in the following boundaries, to wit: Beginning at the most southerly corner of a tract of land surveyed for Joseph Worrell and others, and running thence south fifty-two degrees east, four hundred and fourteen chains and ninety-two links; then north thirty-eight degrees east, four hundred and eighty chains; then north firty-two degrees west, four hundred and fourteen chains and ninety-two links; then south thirty degrees west four hundred and eighty chains to the place of beginning; comprehending in the said bounds one thousand one hundred acres, formerly granted to John Jurck Korst, which are excepted; and the same parcel of the said tract contains nineteen thousand nine hundred acres as to one equal undivided fourth part of which said parcel of the said tract of land, the said Philip Schuyler was seized in trust for the said John Bradstreet, as aforesaid.

And whereas also the said Philip Schuyler, at the time of making the said will, and from thence to the decease of the said John Bradstreet, was also seized in fee of all those lots, part of all that certain tract or parcel of land, formerly situate, lying and being in the county of Albany, but now in the county of Otsego, on the south side of the Mohawk river, and on the bank of a lake from whence a large branch of the Susquehannah river issues, granted by letters patent under the great seal of the late colony of New York, bearing date the fourth day of November, in the year of our Lord one thousand seven hundred and forty-one, unto John Groesbeck and others, which said lots were distinguished by the numbers, one, two, four, six, eight, nine, ten, eleven, twelve, thirteen, fifteen, eighteen, nineteen, twenty, twenty-one, twenty-six, twenty-eight, thirty-two, thirty-three, thirty-four, thirty-five, thirty-nine, forty-one, forty-two, forty-three, forty-four, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-six, sixty, sixty-one, sixty-two, sixty-eight, and a lot commonly called the undivided lot, as to one equal undivided sixth part of which said lots of land last mentioned, the said Philip Schuyler was seized in trust for the said John Bradstreet, as aforesaid.

"*And whereas*, also the aforesaid William Smith having departed this life, the said Philip Schuyler hath become the sole surviving executor of the said last will and testament of the said John Bradstreet: *And whereas*, the said Agatha Evans is one of the daughters of the said John Bradstreet mentioned in his last will and testament: *And whereas*, Martha Bradstreet, the other daughter of the said John Bradstreet, mentioned in his last will and testament, did, on or about the fifteenth of May, in the year of our Lord one thousand seven hundred and eight-one, make and publish her last will and testament in due form of law, in the presence of three credible witnesses and did therein and thereby, after certain bequests, devise her real estate after her mother's decease, who is since dead, and whatsoever she might in any wise be entitled to, as follows, to wit: one equal third part thereof, to her sister Elizabeth Livius, her heirs and assigns forever, to be at her own disposal and independent of her husband by will or otherwise: one other equal third part to Samuel Bradstreet and Martha Bradstreet, children of her late brother Samuel Bradstreet, deceased, and to their heirs and assigns forever, equally to be divided between them, and with benefit of survivorship in case of the death of either of them before the age of twenty-one years; but in the case of the death of both in their minority the said one-third to be equally divided between sister Agatha Du Bellamy, now the said Agatha Evans, and Elizabeth Livius, and to vest in them respectively in like manner as the one-third part devised to each of them, but it was her will that the produce of the said one-third part of her estate, and if necessary, part of the principal should be appropriated to the maintainance and education of the said Samuel and Martha during their infancy; and as to the remaining one-third part of her estate, she did give and devise the produce, income and profits of the same to her said sister Agatha, wife of Charles Du Bellamy, for and during her

life and at her own disposal, and altogether independent of the control of her said husband, and in case she should survive him, then she gave and devised the said one-third part to her said sister and to her heirs and assigns forever; but if her said sister should die before her said husband, leaving at the time of her death any child or children living, she did in that case give and devise the aforesaid one-third part to such child or children from and immediately after her said sister's decease, to the only proper use and behoof of such child or children, and to his, her and their heirs and assigns forever, equally to be divided between them, as tenats in common; and if it should happen that her said sister Agatha, should by surviving her said husband become seized of the fee simple and absolute property of her share, and yet should die without making any disposition thereof, or in case her issue should become so vested and should die under age, or without disposing thereof, or if her said sister should die in her husband's lifetime, leaving no child or children, in either of those events she did give and devise the said share to her sister Elizabeth Livius and to her heirs and assigns, and in like manner if her said sister Elizabeth should die without disposing of her share, and leaving no issue at the time of her decease, she did give and devise her share to her sister Agatha, and her heirs and assigns forever; and of her said will the said testatrix did constitute and appoint Sir Charles Goold, knight, sole executor and did authorize her said executor to sell and dispose of such real estate as she might be entitled to in North America or elswhere, and to execute conveyances for the same as in and by the said last will and testament, reference being thereunto had may appear: *And whereas*, partition hath been made among the proprietors of the said several parcels of the said tracts and lots of land whereof the said Philip Schuyler was so as aforesaid a tenant in common: *And whereas*, upon such partition the lots numbered six, ten, eighteen, twenty one, seventy-seven, seventy-eight, seventy-nine, eighty-nine, ninety, ninety-one, ninety-five, ninety-six and ninety-seven, the north half of lot number two, and the undivided moiety or half part of lots number three, eleven, nineteen and twenty-seven, parts of the tract of land herein before first mentioned, so as aforesaid, granted to Joseph Worrell, and others, fell to the share of the said Philip Schuyler, as a trustee for the said John Bradstreet as aforesaid, and were duly conveyed to him, with other lots and parts of lots in the same tract which fell to him in his own right by indenture, bearing date the nineteenth day of December, in the year of our Lord one thousand seven hundred and eighty-six: *And whereas*, upon such partition the lots numbered twenty-nine, thirty-five, thirty-seven, thirty-nine, forty-three, forty-seven, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one and seventy-seven in the tract of land herein before mentioned to have been granted to John Lyne and others, fell to the share of the said Philip Schuyler, as a trustee for the said John Bradstreet as aforesaid, and were duly conveyed to him, the said Philip Schuyler, in severally with other lots in the same tract which fell to him in his own right by indentures, bearing date the twenty-seventh day of November, in the year of our Lord one thousand seven hundred and eighty-six, as in

and by the said indentures, reference being thereunto had, may appear.

"*And whereas also*, upon such partition, the lots numbered twenty six, thirty-two, thirty-four, forty-three, and fifty-two, and the south moiety or half part of lot number one, in the tract of land herein before mentioned, to have been granted unto John Groesbeck and others, fell to the share of the said Philip Schuyler, as a trustee for the said John Bradstreet as aforesaid, and were duly conveyed to him, the said Philip Schuyler, in severalty with other lots in the same tract, which fell to him in his own right by indenture bearing date the twenty-seventh day of November, in the year of our Lord one thousand seven hundred and eighty-six, as in and by the same indenture, reference being thereunto had, may appear: And whereas also, the said Philip Schuyler, at the time, that he, the said John Bradstreet, made and published his said last will and testament and from thence to the time of his decease, was as a trustee for the said John Bradstreet, seized in fee or entitled to one undivided equal fourth part of all that, those three certain tracts or parcels of land situate lying and being in the county of Rensellar, on the east side of the Hudson's river, the first of which tracts begin at a certain marked tree, standing on the bank of Hudson's river and being on a line running south five degrees west from the mouth of a certain brook called the Deep Kill, forty-one chains distant from the mouth of the said brook where it falls into Hudson's river, and from the said marked tree runs south sixty-eight degrees and thirty minutes east one hundred and fifty-eight chains and two rods, then south thirty-one degrees and thirty minutes east one one hundred and sixty-eight chains and two rods, then north seventy four degrees and thirty minutes east, one hundred and seventy-six chains, then north ten chains, then north sixty-eight degrees west, one hundred and ninety-seven chains, then north twenty-nine degrees and thirty minutes west, one hundred and eighteen chains, then south eighty-six degrees east, near two hundred and sixty-two chains to the land there granted to John Depeyster, then along the bounds thereof north two degrees and thirty minutes west, sixty-three chains, then north eighty-three degrees west, forty-seven chains, then north thirty-two degrees and thirty minutes east, thirty-five chains to the tree from whence the bounds of the said tract of land granted to the said John Depeyster and lately in the possession of Johannes Becker, takes its beginning; thence south eighty-six degrees west, three hundred and forty-two chains to Hudson's river, and then down the stream of the said river to the place where the said first tract began, the second of the said tract begins at the north-east corner of the aforesaid tract of land lately in the possession of the said Johannes Becker, and runs thence along the bounds of the said tract south twenty degrees east sixty-four chains; then north eighty-two degress east sixty-one chains; then south twelve degrees east eighty chains and sixty links; then north thirty-five degrees east one hundred and one chains; then north eighty-six degrees and thirty minutes east eighty-five chains; then north three degrees forty minutes west seventy-eight chains; then south eighty-seven degrees west two hundred and thirty chains; then south seventy-two degrees west nineteen chains, to a certain brook call-

ed Tomehawk; then up the stream of the said brook, to the said tract of land now in the possession of the said Johannes Becker; and then along his bounds north eighty degrees east, to the place where the said second tract began. And the third of the said tracts begins at a certain place which is three hundred and thirty-eight chains, measured on a line running north sixty-six degrees and fifteen minutes east from a certain marked tree, standing in the east line, run for the north bounds of the Manor of Ranslairwick, and on the east side of the aforesaid brook called Towhemack, and runs from the said place of beginning north forty-one degrees east sixty-nine chains; then south fifty-eight degrees east, forty-one chains; then north sixty-six degrees east, one hundred and sixteen chains; then south forty-four degrees and thirty minutes east forty-five chains; then north seventy two degrees east thirty-five chains; then north ten degrees seventy-four chains and forth links; then north fifteen degrees west one hundred and twenty-six chains; then north thirty-four degrees west one hundred and nine chains and two rods; then north seventy two chains; then east twenty-two chains; then south thirty-nine chains and two rods; then south thirty-three degrees and thirty minutes east one hundred and twenty-six chains; then south eighty-five chains and one rod; then south twenty-six degrees and fifteen minutes east fifty-eight chains; then south eleven degrees west one hundred and twenty-seven chains; then south sixty-seven degrees and thirty minutes east one hundred and forty-six chains; then south fifty-seven chains; then west thirty-one chains; then north thirty-six chains; then north fifty-three degrees west fifty-seven chains; then north eighty-two degrees and forty minutes west ninety chains; then south eighty-nine degrees west one hundred and eight chains; then south fifty-one degrees and fifteen minutes west ninety chains; then north thirty-two degrees and thirty minutes west ninety-eight chains, to the place where the said tract began: the said three tracts, containing in all, eleven thousand two hundred and fifty acres of land, and the usual allowance for highways.

"Now, therefore, this indenture witnesseth that the said Philip Schuyler, as well to invest the said Agatha Evans with a legal title to her proportion of her said lands and tenements, devised to her by virtue of the will of the said John Bradstreet and Martha Bradstreet, as to convey the rest and residue thereof to the said Edward Goold, in trust for the several persons who may be entitled to the benefit thereof, under the will of the said Martha Bradstreet, and also for and in consideration of the sum of ten shillings, current money of the State of New York to him in hand well and truly paid by the said Agatha Evans and Edward Goold, before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and thereof and of and from every part and parcel thereof he doth hereby acquit, release, and exonerate and forever discharge the said Agatha Evans and Edward Goold, their heirs, executors, administrators, and assigns forever, by these presents, and by virtue also of the powers and authority with which he is so as aforesaid invested, and of all other powers which he may lawfully claim or exercise, hath granted, bargained, sold, aliened, released and confirmed, and by these presents doth

grant, bargain, sell, alien, release and confirm clearly and absolutely unto the said Agatha Evans, and to their heirs and assigns forever, all those several lots, pieces or parcels and undivided parts of land which so as aforesaid fell to or constitute the share of the said Philip Schuyler, as a trustee for the said John Bradstreet, in the several tracts of land so as aforesaid mentioned to have been granted to the said Joseph Worrel and others, and to the said John Lyne and others and to the said John Groesbeck and others, that is to say, lot number six, part of the tract of land granted to Joseph Worrel and others, as aforesaid, beginning at the south-west corner of lot number five, and and runs thence north thirty-eight degrees east to the north-eastermost bounds of the said patent, thence south fifty-two degrees east, thirteen chains and thirty links, thence south thirty-eight degrees west to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lot number ten of the said tract begins at the south-west corner of lot number nine, and runs thence north thirty-eight degrees east, to the north-eastermost bounds of the said patent, thence south fifty two degrees east, sixteen chains and twenty links, thence south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lot number eighteen of the same tract, begins at the south-west corner of lot number seventeen, and runs thence north thirty-eight degrees east, to the north-eastermost bounds of the said patent, thence south fifty-two degrees east, sixteen chains and twenty links, thence south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lot number twenty-one, aforesaid, of the same tract, begins at the south-west corner of lot number twenty, and runs thence north thirty-eight degrees east, to the north-eastermost bounds of the said patent, thence south fifty-two degrees east, twenty chains and forty-five links, thence south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lots number seventy-seven, seventy-eight and seventy-nine, of the said tract, begins at the south-east corner of lots number eighty, eighty-one and eighty-two, and runs thence south thirty-eight degrees west, to the south-west corner of the said last mentioned lots, thence south fifty-two degrees east, twenty-eight chains and nine links, thence north thirty-eight degrees east, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing one thousand two hundred acres of land; lots number eighty-nine, ninety and ninety-one, of the same tract begins at the south east corner of lots number ninety-two, ninety-three, and ninety-four, and run thence south thirty eight degrees west, to the south-west corner of the said last mentioned lots, thence south fifty-two degrees east, forty eight chains and six links, then north thirty-eight degrees east, to the middle of the stream of the said river, and thence up the stream of the

said river to the place of beginning, containing on thousand two hundred acres of land; lots number ninety-five, ninety-six, and ninety seven, of the same tract, begins at the southeast corner of lots number ninety-eight, ninety-nine, and one hundred, and run thence south thirty-eight degrees west, to the southwest corner of the said last mentioned lots, thence south fifty-two degrees east, forty-eight chains and seventy-seven links, thence north thirty-eight degrees east, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing one thousand two hundred acres of land; the north half of lot number two, which lot number two in the same tract begins at the southwest corner of lot number one, and runs thence north thirty-eight degrees, east to the northermost bounds of the said patent, thence south fifty-two degrees east, sixteen chains and nine links, thence south thirty-eight degrees west to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; the undivided moiety or half part of lot number three in the same tract, which lot begins at the southwest corner of lot number two, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent, thence south fifty-two degrees east, sixteen chains and thirty-nine links, thence south thirty-eight degrees west, to the middle of the stream of the said river, thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; the undivided moiety or half part of lot number eleven in the same tract, which lot number eleven begins at the southwest corner of lot number ten, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent, thence south fifty-two degrees east, seventeen chains and twenty links, thence south thirty-eight degrees west, to the middle of the stream of the said river, thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; the undivided moiety or half part of lot number nineteen, part of the said tract which lot number nineteen begins at the southwest corner of lot number eighteen, and runs thence north thirty-eight degrees east, to the northeastermost bounds of the said patent, thence south fifty-two degrees east, sixteen chains and eighty-seven links, thence south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the said river, to the place of beginning, containing four hundred acres of land; and the undivided moiety or half part of lot number twenty-seven, which said lot number twenty-seven begins at the southwest corner of lot number twenty-six, and runs thence north thirty-eight degrees east, to the northeastermost bounds *bounds* of the said patent, thence south fifty-two degrees east, nineteen chains and ninety-five links, then south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lot number twenty-nine, part of the said tract granted to John Lyne and others, begins in the middle of the stream of the said Mohawk river in the northwest boundary line of the said

tract of land granted by letters patent as aforesaid to John Lyne and others, and running thence north thirty-eight degrees east, to the northeastermost boundary line of the said tract of land, thence south fifty two degrees east, twenty chains and forty links, thence south thirty-eight degrees west, to the middle of the stream of the said river, thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lot number thirty-five of the same tract begins at the southwest corner of lot number thirty-four, and runs thence north thirty-eight degrees east eighty-two chains, thence south twenty-nine chains and twenty links, thence south thirty-eight degrees west, fifty-one chains to the middle of the stream of the said river, and thence up the middle the of stream of the said river to the place of beginning, containing one hundred and *and* twenty-five acres; lot number thirty-seven in the same tract begins at the northwest corner of lot number thirty-three, thence runs north thirty-eight degrees east, one hundred and nine chains, thence south fifty-two degrees east, thirty-five chains and seventy-nine links, thence south thirty-eight degrees west, one hundred and nine chains, and thence north fifty-two degrees west, thirty-five chains and seventy-nine links to the place of beginning, containing four hundred acres of land; lot number thirty-nine in the same tract begins at the southeast corner of the lot number thirty-eight, and runs thence north thirty-eight degrees east, one hundred and nine chains, thence south fifty-two degrees east, thirty-five chains and seventy-nine links, thence south thirty-eight degrees west, one hundred and nine chains, and thence north fifty-two degrees west, to the place of beginning, containing four hundred acres of land; lot number forty-three in the same tract begins at the southeast corner of lot number forty-two, and runs thence north thirty-eight degrees east, one hundred and eighty-two chains and fifty links, thence south fifty-two degrees east, twenty chains and twenty-six links, thence south thirty-eight degrees west, one hundred and ninety-one chains and fifty links to the middle of the stream of the said Mohawk river, thence up the middle of the stream of the said river to the bounds of the said land granted to John Jurk Korst, thence north three chains to the place of beginning, containing four hundred acres of land; lot number forty-seven in the same tract begins at the southeast corner of lot number forty-six, and runs thence north thirty-eight degrees east to the north corner of the said lot number forty-six, thence south fifty-two degrees east, seventeen chains ninety links, thence south thirty-eight degrees west, to the middle of the stream of the said river, and thence up the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; lots number fifty-seven and fifty-eight in the said tract, beginning at the northeast corner of lots number fifty-five and fifty-six, thence south thirty-eight degrees west, corner of the said lots numbers fifty-five and fifty-six, thence south fifty-two degrees west, thirty chains and sixty links, thence north thirty-eight degrees east, to the middle of the stream of the said Mohawk river, and thence down the middle of the said stream to the place of beginning, containing eight hundred acres of land; lots number fifty-nine,

sixty, and sixty-one in the same tract begin at the northeast corner of lot number fifty-seven and fifty-eight aforesaid, and runs thence south thirty-eight degrees west, to the northwest corner of the said lots fifty-seven and fifty-eight, thence north fifty-two degrees west, forty-five chains and thirty-three links, thence north thirty-eight degrees east, to the middle of the stream of the said Mohawk river, and thence down the stream of the said river to the place of beginning, containing one thousand two hundred acres of land; and lot number seventy-seven in the same tract begins at the northeast corner of the lots number seventy-four, and seventy-five, and seventy-six, thence runs south thirty-eight degrees west, to the northwest corner of the said lots number seventy-four, and seventy-five, and seventy-six, thence north fifty-two degrees west, fourteen chains and sixty-one links, thence north thirty-eight degrees east, to the middle of the stream of the said river, thence down the middle of the stream of the said river to the place of beginning, containing four hundred acres of land; all which courses are to be run as the magnetick needle pointed in year of our Lord one thousand seven hundred and sixty-two; lot number twenty-six in the tract granted to John Grosebeck and others as aforesaid, begins at the southwest corner of lot number twenty-five, and runs thence south, sixty degrees east, one hundred and thirty-four chains, thence south thirty degrees west, thirty chains and twelve links, thence north sixty degrees west, one hundred and thirty-four chains, thence north thirty degrees east, thirty chains and twelve links to the place beginning, containing four hundred acres of land; lot number thirty-two in the same tract begins at the southwest corner of lot number thirty-one, and runs thence south sixty degrees east, to the south boundary line of the said patent of John Grosebeck and others, thence south seventy-two degrees west, sixty-three chains and seventy-five links to lake Otsego, thence along the said lake to the place of beginning, containing four hundred and six acres of land; lot number thirty-five in the same tract begins at the southeast corner of lot number twenty-eight, and runs thence south sixty degrees east, one hundred and thirty-four chains, then north thirty degrees east, fifteen chains and fifty-five links, then north sixty degrees west, one hundred and thirty-four chains, thence south thirty degrees west, fifteen chains and fifteen links to the place of beginning, containing two hundred and eight acres of land; lot number forty-three in the same tract begins at the northwest corner of lot number forty-two, and runs thence south sixty degrees east one hundred and thirty-four chains, thence north thirty degrees east, fifteen chains and fifty-five links, then north sixty degrees west, one hundred and thirty-four chains, thence south thirty degrees west, fifteen chains and fifty-five links, to the place of beginning, containing two hundred and eight acres of land; lot number fifty-two in the same tract begins at the northwest corner of lot number fifty-one, and runs thence south sixty degrees east, one hundred and thirty-four chains, thence north thirty degrees east, fifteen chains and fifty-five links, thence north sixty degrees west, one hundred and thirty-four chains, thence south thirty degrees west, fifteen chains and fifty-five links, to the place of beginning,

containing two hundred and eight acres of land; and the south moiety or half part of lot number one in the same tract, the said lot number one beginning at the northeast corner of the land granted by the letters patent last aforesaid, and running thence north sixty degrees west, seventy chains, thence south thirty degrees west, one hundred and ten chains and fifty links, thence south sixty degrees east eight chains, thence north thirty-seven degrees and thirty minutes east nineteen chains eighty-eight links, thence north sixty-one degrees east one hundred and ten chains, to the place of beginning, containing four hundred and twelve acres of land; and also all that full and equal undivided fourth part of all that the aforesaid three certain tracts or parcels of land, situate, lying, and being in the county of Renseller, on the east side of Hudson's river aforesaid, herein before particularly described, containing in all eleven thousand two hundred and fifty acres of land, and the usual allowance for highways, with the right, members, and appurtenances, together with all houses, outhouses, edifices, buildings, orchards, gardens, lands, meadows, commons, pastures, and common of pastures, feeding, woods, underwoods, ways, pathes, water, water courses, easements, profits, commodities, advantages, emoluments, and hereditaments whatsoever, to the said lots or undivided parts of lots of land, and to the said undivided part of the said parcel of land, or any of them, belonging, or in any wise appertaining, or which, to, and with the same now, and, or at any time heretofore, have been held, used, occupied, accepted, reputed, taken, known, used, occupied, or enjoyed, as part or parcel, or member thereof, or of any part thereof; and the reversion and reversions, remainder and remainders, rents, issues, and profits, of all and singular the said premises, and every part and parcel thereof, with the appurtenances; and also all the estate, right, title, interest, property, claim, and demand whatsoever, in law or equity, of him, the said Philip Schuyler, of, in, and to, all and singular the said premises, and every part and parcel thereof, with the appurtenances above mentioned, to be granted hereby, to have and to hold, all and singular the said lots, undivided moieties of lots, and the said undivided equal fourth part of the said parcel of land, except as above excepted; and all the tenements, hereditaments, and premises above, in and by these presents released and confirmed, and every part and parcel thereof, with the appurtenances, unto the said Agatha Evans and Edward Goold, their heirs and assigns, in manner following, that is to say, two equal undivided third parts of the said undivided moieties of lots, and of the undivided fourth part, except as above excepted, and of all other the premises, unto the said Agatha Evans, her heirs and assigns, to her and their only proper use and behoof forever; and the remaining equal undivided third part thereof, unto the said Edward Goold, his heirs and assigns, to his and their proper use and behoof forever, but upon the following trusts, that is to say, to sell the same from time to time, as may be most expedient, and every or any parcel thereof, and after deducting the charges of sale and other contingent expenses attending the said trust, to divide the residue of the money to arise from such sale, to and among the said devisees, Sam-

uel Bradstreet and Martha Bradstreet, and the said Elizabeth Livius, and their heirs, executors and administrators, according to their several interests in the estate of the said Martha Bradstreet, by virtue of her will, or to such persons as would be entitled thereto, upon the happening of any of the said contingencies in the said will mentioned, affecting in any wise their proportion of the same estate; and provided, also, that the same shall express and contain the trusts herein before mentioned, as to the one equal undivided third part of the premises, and every part thereof. And the said Philip Schuyler, for himself, his heirs, executors and administrators, doth covenant, grant, promise and agree, to and with the said Agatha Evans and Edward Goold, their heirs and assigns, that he, the said Philip Schuyler, hath not, nor hath or have any person or persons by authority from him since the decease of the said John Bradstreet, done or committed any act or acts, whereby the estate of the said Agatha Evans and Edward Goold, in the premises above released, or any part or parcel thereof may be in any manner charged or incumbered, and also that he, the said Philip Schuyler and his heirs, shall and will, from time to time, and at all times hereafter, upon the reasonable request, and at the proper costs and charges in the law, of the said Agatha Evans and Edward Goold, their heirs and assigns, make, do, seal, and execute, or cause to be made, done, sealed, and executed, all and every such further and other lawful and reasonable act and acts, thing and things, conveyance and conveyances in the law, whatsoever, for the further, better, and more perfect granting, conveyancing, releasing, confirming, and assuring of all and singular the premises aforesaid, with the appurtenances, and every part thereof, unto the said Agatha Evans and Edward Goold, their heirs and assigns, to the only proper use and behoof of the shid Agatha Evans and Edward Goold, their heirs and assigns, forever, as by the said Agatha Evans and Edward Goold, their heirs or assigns, or their counsel, learned in the law, shall be reasonably devised, advised, *advised*, required: *Provided*, however, that such assurances are not to contain any covenants on the part of the said Philip Schuyler, or his heirs, by which he or they may be made answerable or liable, for any act or acts, in respect to the above premises, or any part thereof, other than those by him or them done and performed: also, that the same shall express and contain the trusts herein before mentioned, as to the one equal undivided third part of the premises, and every part thereof.

"In witness whereof, the said parties to these presents have hereunto interchangeably set their hands and seals the day and year first above written.

PH. SCHUYLER, *Ex'r.* [L. S.]

Signed and delivered in the presence of us.

"The words *parcel of*," being wrote on a rasure in the 17th line of the first page, the words *fifty-two degrees west*," on the third line of the second page, the word *fourth*" in the fourth line from the bottom of the third page, and the words "*and Martha Bradstreet*," in-

terlined in the ninth line from the bottom of the 4th page, "*undivided*," wrote on a rasure in the fifth line of the 5th page, "*then north sixty degrees west one hundred and thirty-four chains, thence south thirty degrees west fifteen chains and fifteen links*," interlined in the fourth line of the 7th page, "*fourth*," in the 13th line of the same page wrote on a rasure, "*fourth*," in the 8th line from the bottom of the same page wrote on a rasure, the word "*release*," in the fourth line from the bottom of the 3d page, and the same word in the thirteenth line of the 7th page being done before execution, and the words "*seventy-seven*," in the thirteenth line of the 3d page, and the words "*seventy-seven*," in the twelfth line of the fifth page being interlined after the words "*lots number*," in the said twelfth line, and the words "*twenty-one*," in the said thirteenth line before the execution, the word "*east*," being wrote on a rasure in the 22d line of the 6th page.

RICH. HARISON.
GABRIEL V. LUDLOW.

NEW YORK, *ss.*

Be it remembered, that, on this third day of June, A. D. 1794, personally appeared before me, James M. Hughes, Esquire, master in chancery, Gabriel V. Ludlow, one of the subscribing witnesses to the within deed, who, being by me duly sworn upon the holy evangelist, and depose and declare that he was present and saw Philip Schuyler, the party executing the within instrument, signd, seal, execute, and deliver the same, as his proper act and deed, for the uses and purposes therein mentioned, and that the name Ph. Schuyler, Ex'r. thereto set, is the proper handwriting of the said Philip Schuyler; and also that the names Richard Harison and Gabriel V. Ludlow, to the same subscribed as witnesses, are of the proper handwriting of the said Richard Harison and this deponent, and I having perused the same, and finding no material rasures or interlineations therein, except those noted, allow the same to be recorded.

JAMES M. HUGHES.

Clerk's Office of the County of Herkimer, ss.

I certify the foregoing to be a true copy from the record remain-
[L. S.] ing in this office. Given under my hand, and the seal of the county, this 8th day of June, 1796.

ROBERT PLATT, *D'y. C'lk.*

SCHEDULE I.

"In the name of God amen. I Elizabeth Livius, wife of Peter Livius, Esq. of Lincoln's Inn Fields; being in a very weak state of health, though of a sound disposing mind, and memory, do hereby make my last will and testament in manner following. I hereby constitute and appoint my dear niece, Martha Bradstreet, daughter of my

late brother Samuel Bradstreet, Major of the 40th Regiment of Foot, to be my sole heir, to whatever estate, real or personal, I may die possessed of, to be paid, or delivered, unto her at the age of twenty-one years, or day of marriage, whichever may first happen; provided she marries with the consent of my most respected friend Sir Charles Morgan Bart. whom I hereby appoint executor of this my last will and testament. But in case she should die before she attain twenty-one years of age or before she be married as aforesaid, I then appoint her brother, Samuel Bradstreet, a lieutenant in the 25th Regiment of Foot to be my heir in her place and stead. In witness whereof I have hereunto set my hand and seal this twentieth day of November, 1791.

ELIZ LIVIUS. [L. S.]

In the presence of
JANE DUMENEY,
SUSANNA LIVIUS,
CHARLOTTE LIVIUS."

SCHEDULE K.

"Know all men by these presents that whereas Martha Bradstreet, formerly of Boston in North America, and at the time of the making of her last will and testament hereinafter mentioned, residing in the parish of Marybone Westminster late deceased, in and by her last will and testament bearing date the fifteenth day of May in the year of our Lord one thousand seven hundred and eighty-one, did (amongst divers other devises and bequests therein contained) give and devise to her dear mother Mrs. Mary Bradstreet, the produce and interest of her estate real and personal during the life of her said mother and the sum of one thousand pounds principal and her apparrel household furniture any cash she might have by her at her disease to dispose of as her said mother might think proper subject however to the payment of her debts funeral charges and *and* the sum of one hundred pounds which she bequeathed to her aunt Mrs. Martha Aldridge widow to be paid in one month after her decease and as to her real estate and residue of her personal estate and the rents issues and profits of both after the death of her said mother she did give devise and bequeath the same and *and* whatsoever she might in any wise be entitled unto as follows: One equal third part thereof to her sister Elizabeth Livius her heirs and assigns forever to be at her own disposal independent of her husband by will or otherwise one other equal third part to Samuel Bradstreet and Martha Bradstreet children of her late brother Samuel Bradstreet deceased, and to their heirs and assigns forever equally to be divided between them with benefit of survivorship in case of the death of either of them before the age of twenty-one years but in ease of the death of both in their minority the said one-third to be equally divided between her sister Agatha Du Bellamy and Elizabeth Livius and vest in them respectively and in like manner as the one-third part divised to each of them but it was her will that the produce of the said one-third part of her estate and if

necessary part of the principal should be applied to the maintainance and education of the said Samuel and Martha during their infancy. And of her said last will and testament made and appointed Sir Charles Gould Knight the sole executor who hath taken upon himself the execution thereof. And whereas the said Samuel Bradstreet hath attained the age of twenty-one years Now therefore know ye that I the said Samuel Bradstreet for and in consideration of fifty cents current money of the United States of America to me in hand well and truly paid by said sister Martha Codd formerly Martha Bradstreet at or before the sealing and delivery of these presents have and by these presents do remise release and forever quit claim unto the said Martha Codd and to her heirs and assigns forever all right title interest property claim and demand of what nature or kind soever which I have or may have or may be entitled to by survivorship in case of the death of my said sister Martha before she attain the age of twenty-one years by form or under any bequest devise or clause in the said will of the said Martha Bradstreet herein before in part recited and I do hereby authorize the said Charles Gould the executor named in the said will (and who is now called Sir Charles Morgan Baronet) forthwith to pay and release all such right title interest property claim and demand unto the said Martha Codd. In witness whereof the said Samuel Bradstreet hath hereunto set his hand and seal this first day of November in the year of our Lord one thousand seven hundred and ninety-nine.

SAMUEL BRADSTREET. [L. S.]

Sealed and delivered in the presence of
The word *time* in 2d line on first page *words residue of her* in 16th line on first page and word *will* in 11th line on last page interlined and word estate on sd. 16th line within on an erasure.

HENRY POST,
WM. FERRIS."

SCHEDULE L.

"Whereas Elizabeth Livius, late of the Island of Great Britain, deceased, being seized and possessed of and entitled to a considerable real and personal estate in North America and elsewhere on the twentieth day of November one thousand seven hundred and ninety-four made her last will and testament in the words and figures following to wit: "In the name of God amen. I Elizabeth Livius wife of Peter Livius Esqr. of Lincoln Inn Fields being in a very weak state of health, though of a sound disposing mind and memory do hereby make my last will and testament in manner following: I hereby constitute and appoint my dear niece Martha Bradstreet daughter of my late brother Samuel Bradstreet Major of the 40th Regt. of Foot to be my sole heir to whatever estate real or personal I may die possessed of to be paid or delivered unto her at the age of twenty-one

years or day of marriage whichever may first happen provided she marries with the consent of my most respected friend Sir Charles Morgan Bart. whom I hereby appoint executor of this my last will and testament. But in case she should die before she attain twenty-one years of age or before she be married as aforesaid. I then appoint her brother Samuel Bradstreet a Lieutenant in the 25th Regiment of Foot to be my heir in her place and stead. In witness whereof I have hereunto set my hand and seal this twentieth day of November 1794. And the said Elizabeth soon after making the said will died without revoking or altering the same. And whereas Martha Bradstreet in the said will named hath since the death of the said Elizabeth intermarried with Matthew Codd the said Martha at the time of the said intermarriage being under the age of twenty-one years. And whereas I Samuel Bradstreet brother of the said Martha and also named in the same will have made a claim to the property devised and bequeathed by the said will in consequence of a supposition that the said Martha had not duly obtained the consent of the executor in the said will named to the said marriage and to try the respective claims of the said Martha and myself to the said property she together with her said husband hath commenced a suit in the court of chancery of the State of New York against me and Edward Goold of the city of New York who as a trustee or agent of the said Elizabeth was possessed of a considerable portion of the said property. And whereas the said Matthew and Martha have obtained a judgment against me in the Mayor's court of the city of New-York for four hundred and forty-seven dollars 46 cents or thereabouts besides costs. Now therefore I the said Samuel Bradstreet for the purpose of putting an end to the said controversy and in consideration that the said Matthew and Martha have released the said judgment and all right to the money therein mentioned do hereby grant bargain sell transfer assign alien release convey and confirm unto the said Martha and to her heirs executors administrators and assigns all my right title and interest in the property devised and bequeathed by the said will together with all and singular the hereditaments privileges and appurtenances to the same belonging To have and to hold all my aforesaid right title and interest unto the said Martha her heirs executors administrators and assigns to the only proper use and behoof of the said Martha her heirs executors administrators and assigns forever.

And I the said Samuel do hereby covenant with the said Matthew that I have not done suffered and committed either by judgment contract or other incumbrance any act matter or thing whereby my right title or interest in the said property can in any wise be affected, and that I will upon the reasonable request and at the proper cost and charges of the said Matthew do and execute or cause to be done or executed all such further acts and deeds as may be necessary to vest all the right title and interest in the said property which I now have or ever had in the said Martha her heirs executors administrators and assigns and as by counsel learned in the law may be reasonably devised or advised. In testimony whereof I have hereunto set my hand

and seal this twenty-sixth day of July one thousand eight hundred and two.

SAMUEL BRADSTREET."

Sealed and delivered in the presence of
N. B. The words *(Martha and)* first cancelled.

NICHS. EVERTSEN."

SCHEDULE M.

"I Thomas Bonnet, of London, notary public by Royal authority, duly admitted and sworn, do hereby certify and attest to all whom it may concern, that Sir Charles Morgan Baronet, residing in this city, of London, in Grafton street, Bond street, and at Tredegar, in Monmouthshire, did in my presence, and in the presence of George Leonard Jenyns, Esquire, of Bottisham Hall, near Cambridge, and James Golbourn, of Ely, in the Isle of Ely, Esquire, sign and seal and as his act and deed deliver in due form of law the paper writing hereunto annexed, marked with the letter (A.) purporting his full consent to the marriage of Miss Martha Bradstreet, with Mr. Matthew Codd, her present husband, and that the signature "Chas. Morgan" and seal thereto affixed, are the proper handwriting and sealing of the said Sir Charles Morgan Baronet, and further that the signatures 'George Leonard Jenyns, Bottisham Hall, near Cambridge' 'James Golbourn, of Ely, in the Isle of Ely, thereto subscribed as witnesses, are respectively of the own proper handwritings of the above named George Leonard Jenyns and James Golbourn, Esquires. And that faith and credit may and ought to be given thereto in judgment and thereout whereof an act being required, I have granted this under my notarial seal to serve and avail where needful.

London this fourth day of June one thousand eight hundred.
In testimonium veritatis.

THOS. BONNET, *Nots. Pubs.* [L. S.]

We the undersigned public notaries do hereby certify that Mr. Thomas Bonnet, who hath signed the foregoing act is a sworn notary public practising in this city, and that to all acts and attestations by him so signed faith and credit may and ought to be given in judgment and thereout. London, this 4th day of June 1800.

Witness our hands.

DAV. GUILLONNEAU, *Not. Pub.*
JOHS. MITCHELL, *Nots. Pub.*

(A.)

Understanding, that doubts have been entertained, whether my consent has been given to the marriage of Miss Martha Bradstreet with Mr. Matthew Codd her present husband, upon which circumstance the effect of operation of a bequest made to her by the last

will or testament of her aunt the late Mrs. Elizabeth Livius may depend, I think it incumbent upon me to certify how that business stands. The marriage was agreed upon and took place before I was apprised of the mutual attachment of the parties, the said Miss Martha Bradstreet (now Mrs. Codd) being in Irreland, myself in Great Britain. Had my consent been asked before the nuptials had taken place, I should most probably have recommended it to her to pause, and give a little time for deliberation, as well as for affording me an opportunity for informing myself of Mr. Codd's character, connections and situation in life, before I had expressed either assent or dissent. Almost immediately after the marriage had been solemnized, I believe by the very first mail, she made me acquainted therewith; and I presently after learnt that Mr. Codd was a young gentleman of good reputation, but of slender fortune, and from his general demeanor likely to make a good husband. I did not then for a moment hesitate, as far as it depended upon me, to ratify the bequest made by Mrs. Livius's said last will and testament by giving my free consent, thinking that I was fully warranted so to do, according to the trust reposed in me, and I have ever since considered the property of Mrs. Livius to be in virtue of her said last will and testament absolutely vested in Mrs. Codd. I have only to add, that had I been applied to before the marriage, and I had known what I have since been informed respecting Mr. Codd, tho' I should then, as I do now, have wished for both their sakes, that he had been possessed of a better property, I should not have refused my consent, if I had perceived her affections to be fixed upon Mr. Codd. The will however does not express, that the consent must be *previous* to the marriage: At that time I had not the means, nor was I called upon to form any judgment upon the matter, the same not having been proposed to me; I never at any point of time declared my *dissent:* such are the circumstances of the case. The construction deducible therefrom is submitted to the court in which the question is pending. In witness of the truth of which I have hereunto set my hand and seal the fourth day of June 1800.

CHAS. MORGAN. [L. S.]

Witnesses: George Leonard Jenyns, Bottisham Hall, near Cambridge, James Golbourn, of Ely, in the Isle of Ely."

SCHEDULE N.

"The people of the State of New York, by the grace of God free and independent, to all to whom the presents shall come, [SEAL.] *Greeting:*

Know ye, that we having inspected the records of our court of chancery of said State, do find a certain decretal order therein remaining, which is in the words and figures following, to wit:

At a court of chancery, held at the city hall of the city of New York, on the seventeenth day of May, 1803.

Present: the honorable John Lansing, junior, Esq. chancellor.

MATTHEW CODD and
MARTHA his wife
vs.
EDWARD GOOLD and
SAMUEL BADSTRET.

Counsel having been heard in this cause on the part of the complainants and defendants, and time being taken to advise his honor, the chancellor, doth order, adjudge, and decree, and it is hereby ordered, adjudged, and decreed, that the said Edward Goold do transfer to the said Matthew, all the personal estate in the hands or possession of the said Edward, as trustee of Elizabeth Livius, deceased, in the pleadings in this cause mentioned, and do transfer and convey unto the complainant, Martha Codd, all the real estate vested in him as trustee as aforesaid, but that nothing herein contained shall make the said Edward Goold personally responsible for any of the said trust property which may have been converted into money, and for which he would have been liable if he had not become a bankrupt and obtained a certificate of discharge, and that each party pay his own cost. And it is further ordered and decreed, that it be referred to one of the masters of this court, to take an account of the real and personal property in the possession of the defendant, Edward Goold, as a trustee as aforesaid, and not converted into money before his bankruptcy, and to direct a proper transfer and conveyance to the complainants as aforesaid.

All of which we have by these presents exemplified, and the seal of our said court of chancery hereunto affixed.

Witness Samuel Jones, chancellor of our said State, at the city of New York, this seventh day of May, in the year of our Lord one thousand eight hundred and twenty-seven, and of the independence of the United States of America the fifty-first.

A copy. JOHN L. LAWRENCE.
Assistnt Register.

I, Samuel Jones, chancellor of the State of New York, do hereby certify that the seal affixed to the preceding exemplification is a true impression of the seal of the court of chancery of said State; that John L. Lawrence, whose name is subscribed to the attestation of the said exemplification, is the assistant register of said court; and that the said attestation is in due form.

S. JONES."

Dated Albany, 14th January, 1828

SCHEDULE O.

The people of the State of New York, by the grace of God free and independent; to all to whom these presents shall come,
[L. S.] greeting:—Know ye that we have inspected the files of our court of chancery, of our said State, to find a certain bill there remaining, which is in the words following, to wit:

IN CHANCERY.

To the Honorable John Lansing, Esquire, Chancellor of the State of New York.

Humbly complaining, show unto your honor your orator, Matthew Codd, late of Ireland, but now of the county of West Chester, and State of New York, gentleman, and Martha, his wife, late Martha Bradstreet, late of England, in the Island of Great Britain, that Elizabeth Livus, late of London, in Great Britain, aforesaid, widow, deceased, the sister of your orator s father, Samuel Bradstreet, deceased, being seized and possessed of, and entitled to a large real and personal estate in the Island of Great Britain aforesaid, and in this State and elsewhere, in North America, on the twentieth day of November, one thousand seven hundred and ninety-four, made her last will and testament, in writing in the words and figures following, to wit: "In the name of God, Amen; I, Elizabeth Livius, wife of Peter Livius, Esquire, of Lincoln's Inn Fields, being in a very week state of health, tho' of a sound disposing mind and memory, do hereby make my last will and testament, in manner following: I hereby constitute and appoint my dear niece, Martha Bradstreet, daughter of my late brother, Samuel Bradstreet major of the 40th regiment of foot, to be my sole heir to whatever estate, real or personal, I may die possessed of, to be paid or delivered unto her at the age of twenty-one years, or day of marriage, which ever may first happen, provided she marries with the consent of my most respected friend, sir Charles Morgan Bart, whom I hereby appoint executor of this, my last will and testament. But in case she should die before she attains twenty-one years of age, or before she be married as aforesaid, I hereby appoint her brother, Samuel Bradstreet, a lieutenant in the 25th regment of foot, to be my heir in her place and stead. In witness whereof, I have hereunto set my hand and seal, this twentieth day of November, 1794; Eliza Livius. In the presence of Jane Dumeney, Susannah Livius, Charlotte Livius," as by the said will ready to be produced, as this honorable court shall direct, will fully and at large appear. And your orator and oratrix further show unto your honor, that your oratrix is the same person named, Martha Bradstreet in the said will. And your orator and oratrix further show unto your honor, that the said Elizabeth Livius soon after making her said last will and testament, died without revoking or altering the same, seized and possessed of, and entitled to the said real and personal estate as aforesaid.

And your orator and oratrix further show unto your honor that your orator and oratrix intermarried in Ireland aforesaid, on or about the sixteenth day of April, one thousand seven hundred and nine-ty-nine. And your orator and oratrix, further show unto your honor, that at the time of the said marriage, your orator and oratrix resided in Ireland as aforesaid, and the said Sir Charles Morgan, in London as aforesaid, which remoteness, together with the serious political disturbances then existing in the former place, which compelled your orator and oratrix to quit the country in great haste, prevented them

from obtaining the consent of the said executor to the said marriage, prior thereto. But your orator and oratrix expressly allege and further show unto your honor, that the said executor very soon after the celebration of the said marriage, upon being informed thereof, expressed his hearty and decided approbation of it, declaring that he had been consulted on the subject, previous to the confirmation of said marriage, he would have given his consent to it. And further, that he considered the title of your oratrix to the estate of the said Elizabeth Livius, as established by the said marriage, as your orator and oratrix are fully able to prove. And your orator and oratrix further show unto your honor, that very soon after the said marriage took place, your orator and oratrix came into the State of New York, where they have resided ever since. And your orator and oratrix further show unto your honor, that your oratrix attained the age of twenty-one years, on the tenth day of August, one thousand eight hundred and one. And your orator further showeth unto your honor, that the said Sir Charles Morgan, ever since the said marriage, has resided, and still resides in the Island of Great Britain, aforesaid, and hath ever been, and still is desirous that your oratrix should be invested with the possession of all the property of the said Elizabeth Livius. And your orator and oratrix further show unto your honor, that a large amount of personal estate, of the property of the said Elizabeth Livius, at the time of her death, hath come to the hands and possession of Edward Goold, of the city of New York, merchant, as agent or trustee for the said Elizabeth or her representatives. And your orator and oratrix further show unto your honor that a considerable portion of real estate of the said Elizabeth at the time of her death hath likewise become vested in the said Edward, as trustee, or otherwise subjected to his direction and management. And your orator and oratrix further show unto your honor that your orator and oratrix hath frequently in a friendly manner applied to the said Edward Goold, and requested him to account with your orator and oratrix for the property of the said Elizabeth Livius so as aforesaid in his possession or under his direction or control or to pay or transfer the same to your orator or oratrix which the said Edward refused to do, unless the said Samuel Bradstreet, the brother of your oratrix, will consent to it or this honorable court should so order and decreee. And your orator and oratrix further show unto your honor that your orator and oratrix have frequently in a friendly manner applied to the said Samuel Bradstreet for his consent that the said Edward should account with your orator and oratrix, for the said property in his possession as aforesaid; which the said Samuel hath refused to do, but to the contrary hath forbidden the said Edward to account with your orator and oratrix for the said property; alleging that the same belongs to him, and that should the said Edward transfer the same to your orator and oratrix, he the said Samuel would still hold him accountable therefor altho' the said Samuel hath once since the said marriage informed the said Edward that your oratrix was entitled to the property of the said Elizabeth under her will and that the said Edward should account with her therefor. And your orator and oratrix well hoped that

the said Edward and Samuel would upon mature consideration have been convinced of the right of your orator and oratrix to the said property and accordingly would have consented to transfer and actually transferred the property aforesaid in the hands of the said Edward unto your orator and oratrix as in justice ought to be done. But now so it is may it please your honor that the said Edward and Samuel combining and confederating together and with divers other persons unknown to your orator and oratrix whose names when discovered your orator and oratrix pray may be inserted in this their bill of complaint with apt and proper words to charge them as parties thereto absolutely refuse to consent that your orator and oratrix shall have the possession or enjoyment of the said property or to admit the right of your orator and oratrix thereto, but on the contrary pretend that your oratrix hath forfeited her right to the property of the said Elizabeth Livius by her marriage aforesaid; all which actings and doings of the said Edward and Samuel and their confederates are contrary to equity and good conscience: In tender consideration whereof and for as much as matters of this nature are particularly cognizable in this honorable and not in a court of common law. To the end therefor that the said Edward and Samuel and their confederates when discovered may true and perfect answers make to all and singular the premises as minutely and particularly as if the same were here again repeated, and they thereunto expressly interrogated. And more especially whether the said Elizabeth was not the sister of your oratrix's father? And whether the said Elizabeth did not reside in England and die there as above set forth, or where else in particular? And whether the said Elizabeth did not die seized and possessed of or entitled to a large real and personal estate or otherwise, and what in particular and where in particular in whose hands care or management in particular? And whether the said Elizabeth did not on or about the day for the purpose above set forth, or when in particular, make her last will and testament as above set forth? And whether a true copy of the said will is not above set forth? Or what else are the contents of the said will in particular? And whether the said Elizabeth soon after making her said will did not die without revoking or altering the same? Or how in particular? And whether your oratrix is not the same person named "Martha Bradstreet" in the said will, or who and where is the person so named "Martha Bradstreet?" And whether your orator and oratrix did not intermarry at or about the time for that purpose above set forth? And whether the situation of your orator and oratrix and the residence of the said Charles Morgan at the time of the said marriage were not such as above set forth or how else in particular? And whether the said Charles Morgan did not approve of the said marriage as above set forth? Or what did he say on that subject in particular? And whether the said Charles did not allege that had he been consulted on that subject prior to the marriage he would have consented, or what did he say upon that point? And whether the said Charles did not consider the said marriage as a performance of the condition in the said will mentioned? And whether your orator and oratrix soon after the said marriage did not embark

for this State as above set forth? And whether your oratrix did not at the time for that purpose set forth or when else in particular attain the age of twenty-one years? And whether the said Sir Charles Morgan doth not now reside in England as above set forth or where else in particular? And whether the said Sir Charles Morgan hath not uniformly been desirous that your oratrix should enjoy the estate of the said Elizabeth Livius as above set forth or how elese in particular? And whether a large amount of personal property or otherwise and what amount in particular hath not come to the possession of the said Edward, or in some way under his management and disposal and how in particular? And whether part of the real estate of the said Elizabeth hath not come to the possession care or mangement of the said Edward and to what extent and where situate and how in particular? And whether your orator and oratrix or one of them hath not requested the said Edward to account with them for the property so as aforesaid in his hands? And whether the said Edward hath not refused to transfer the said property to your orator and oratrix? Or what did the said Edward say upon that subject? And whether the said Samuel Bradstreet hath not objected to the said Edward transferring the said property to your oratrix? Or what hath he said to the said Edward on that subject in particular? And whether the said Samuel hath not since the said marriage informed the said Edward, and how, that the said property in his hands belonged to your oratrix, or to that effect, and when in particular? And that the said Edward and Samuel may set forth a particular account of all the property of the said Elizabeth Livius in their hands, possession and knowledge and may be decreed by your honor to transfer to your orator and oratrix all such property together with the documents deeds and vouchers accompanying the same, and that your orator and oratrix may have such further and other relief in the premises as to your honor shall seem meet and agreeable to equity and good conscience. May it please your honor to grant unto your orator and oratrix the peoples' most gracious writ of subpœna issuing out and under the seal of this honorable court to the said Edward Goold and Samuel Bradstreet to be directed and delivered commanding them by a certain day and under a certain pain therein to be limited and expressed to be and appear before your honor in this honorable court to stand to and abide such order and decree in the premises as to your honor shall seem meet and agreeable to equity and good conscience. And your orator and oratrix will ever pray.

EVERSTON,
Solicitor and Council.

[ENDORSED.]

'Filed 24th November, 1801.

KIP, *Cl'k.*'

All which we have caused by these presents to be exemplified and the seal of our said court of chancery to be hereunto affixed. Witness

Samuel Jones Chancellor of the said State at the city of New York the twenty-first day of November in the year of our Lord one thousand eight hundred and twenty-seven and of the independence of the United States of America the fifty-second.

JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, Chancellor of the State of New York, do hereby certify that the seal affixed to the preceding exemplication is a true impression of the seal of the court of chancery of said State; that John L. Lawrence whose name is subscribed to the attestation of the said exemplification is the assistant resgister of said court, and that the said attestation is in due form.

Dated Albany, 14th January, 1828.

S. JONES.

SCHEDULE P.

The people of the State of New York, by the grace of God free and independent; to all to whom these presents shall come, greeting: [L. S.]

Know ye that we having inspected the files of our court of chancery of our said State, do find a certain answer there remaining, which is in the words following, to wit:

IN CHANCERY.

The several answer of Samuel Bradstreet one of the defendants to the bill of complaint of Matthew Codd and Martha his wife against Samuel Bradstreet and Edward Goold, defendants.

This defendant now and at all times hereafter saving and reserving to himself all manner of advantages and benefit of exception to the manifold errors, insufficiences and uncertainties contained in the said bill of complaint of the said Matthew Codd and Martha his wife for answer thereto or to as much thereof as he is advised it is material and necessary for him to make answer unto, he answers and says, that he admits that the said Martha is the same person who is named Martha Bradstreet in the said will of the said Elizabeth Livius, but this defendant denies that the said complainants have any right to the property mentioned in the said bill of complaint by virtue of the said will of the said Elizabeth Livius, and on the contrary insists that he this defendant is the person entitled to have and receive the same, the said Martha not having married with the consent of Sir Charles Morgan agreeably to the proviso contained in the said will of Elizabeth Livius, and this defendant prays the opinion of this honorable court whether the said marriage of the said Martha without the consent of the said Sir Charles Morgan previously obtained does not entitle this defendant to have and receive all and singular the estate both real and personal of which the said Elizabeth Livius died seized and possessed; and this defendant denies all manner of unlawful combination and confederacy in the said bill charged, without that, that there is

any other matter or thing material or necessary for this defendant to make answer unto, and not herein or hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true: All which matters and things this defendant is ready to aver and prove as this honorable court shall direct and award; and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

SAMUEL BRADSTREET.
ROB. TROUP,
Solr. for Deft.
THEODORE V. W. GRAHAM,
Of Counsel for Deft.

Sworn this 15th day of Decemr. 1801, before me
JAMES M. HUGHES, *Mr. in Chy.*

[ENDORSED.]

"Filed 15th day of December 1801.
THOS. SMITH, *Clk.*"

All which we have caused by these presents to be exemplified and the seal of our said court of chancery to be hereunto affixed. Witness, Samuel Jones, chancellor of our said State at the city of New York, the twenty-first day of November, in the year of our Lord one thousand eight hundred and twenty-seven, and of the independence of the United States of America the fifty-second.

JOHN L. LAWRENCE, *Assistant Register.*

I, Samuel Jones, chancellor of the State of New York, do hereby certify that the seal affixed to the preceding exemplification is a true impression of the seal of the court of chancery of said State; that John L. Lawrence whose name is subscribed to the attestation of the said exemplification, is the assistant register of said court; and that the said attestation is due in form. Dated Albany 14th January, 1828. S. JONES.

SCHEDULE Q.

[L. S.] The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come, greeting:

Know ye that having inspected the files of our court of chancery of our said State do find a certain answer there remaining, which is in the words following, to wit:

IN CHANCERY.

The separate answer of Edward Goold one of the defendants to the bill of complaint of Matthew Codd and Martha his wife against this defendant and Samuel Bradstreet.

This defendant saving to himself now and at all times hereafter all and all manner of benefit and advantage of exception to the man-

ifold errors uncertainties and insufficiencies in the complainant's bill of complaint contained for answer thereto or unto so much thereof as he is advised that it is in any manner material for this defendant to make answer unto he answereth and saith, that he believes that Elizabeth Livius in the said bill of complaint named made such last will and testament as in the said bill is set forth, but for greater certainty therein he refers to the said will when it shall be produced to this honorable court. And this defendant further saith that he also believes the complainant Martha Codd to be the person named Martha Bradstreet in the said will, and that the said Elizabeth Livius died without revoking or altering the same, seized, possessed and entitled as in the said bill is set forth, and that the complainants intermarried at or about the time for that purpose in their said bill stated and that at the time of the said marriage the complainants resided in Ireland, and Sir Charles Morgan in the said bill named in London; that such marriage was had without the previous consent of the said Sir Charles Morgan and with such circumstances of subsequent approbation as in the said bill are contained—and that they and the said Sir Charles Morgan have respectively resided as in the said bill is also stated; and that the complainant Martha obtained her full age as in the said bill is alleged. And this defendant further answering saith that he hath always been and still is willing to account for all of the estate of the said Elizabeth Livius in his hands to any person legally entitled to the same and he doth hereby offer to account as aforesaid under the order and direction of this honorable court upon oath if required, but this defendant further saith, that having become possessed of such property under powers from the said Peter Livius and Elizabeth his wife and Sir Charles Morgan and there being a question whether under the circumstances that have taken place in respect to the marriage of the complainants they or the defendant Samuel Bradstreet were entitled to the said property, this defendant hath been advised not to part with the same without the order and decree of this honorable court in the premises to which this defendant is ready and willing to conform in every respect, being only desirous to have such decree of the court for his indemnification, and this defendant denies all and all manner of unlawful combination and confederacy wherewith he is charged, without that *that* any other matter or thing material or necessary for this defendant to make answer unto and not herein and hereby well and sufficiently answered unto confessed and avoided traversed or denied is true; all which matters and things this defendant is ready to aver and prove as this honorable court shall direct and award, and hereby prays to be hence dismissed with his reasonable costs a charges by him about this suit in this behalf most wrongfully sustained.

EDWARD GOOLD.
R. HARRISON,
Sol. for Deft.
W. WILCOCKS,
Of Counsel for Deft.

Sworn this 9th day of Jan'y 1802, before me
JAMES M. HUGHES, *Mastr. in Chy.*

[ENDORSED]

"11 Jany. 1802, filed.

THOMAS SMITH, *Clk.*"

All which we have caused by these presents to be exemplified and the seal of our said court of chancery to be hereunto affixed. Witness, Samuel Jones chancellor of our said State at the city of New York the twenty-first day of November in the year of our Lord one thousand eight hundred and twenty-seven and of the independence of the United States of America the fifty-second.

JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, chancellor of the State of New York, do hereby certify that the seal affixed to the preceding exemplification is a true impression of the seal of the court of chancery of said State; that John L. Lawrence whose name is subscribed to the attestation of the said exemplification, is the assistant register of said court; and that the said attestation is in due form.

Dated Albany 14th January, 1828.

S. JONES.

SCHEDULE R.

The people of the State of New York, by the grace of God free and independent to all to whom these presents shall come [L. S.] *greeting:*

Know ye, that we having inspected the files of our court of chancery of our said State, do find a certain answer there remaining, which is in the words following, to wit:

STATE OF NEW YORK—IN CHANCERY.

The further answer of Samuel Bradstreet, one of the defendants to the bill of complaint of Matthew Codd and Martha his wife, complainants.

This defendant further answering saith, that he hath been informed, which information he believeth to be true, that the said Elizabeth Livius is dead; but when and where in particular the said Elizabeth Livius died, this defendant doth not know.

And this defendant further answering saith, that he hath been informed, which information he believeth to be true, that the said Elizabeth Livius died seized of, possessed and entitled to a large real and personal estate, as is set forth in the said bill of complaint, but of what particulars the said real and personal estate consisted, this defendant doth not know.

And this defendant further answering saith, that he hath been informed, which information he believeth to be true, that the property of the said Elizabeth Livius is now in the hands, and under the care and management of the said Sir Charles Morgan and the defendant

Edward Goold; but what particular portions thereof are in their hands respectively, and to what amount this defendant doth not know.

And this defendant further answering saith, that the complainant Martha Codd, informed this defendant that the said Elizabeth Livius made such last will and testament as is set forth in the said bill of complaint, but that altho' he, this defendant hath written to Sir Charles Morgan for such authenticated copy of such will, he hath not been able to procure such anthenticated copy from the said Sir Charles Morgan.

This defendant, therefore, is unable to say whether the said Elizabeth Livius really executed such will, as is set forth in the said bill of complaint, yet this defendant admitteth that the said Elizabeth Livius made such will, as is set forth in the said bill of complaint; but for greater certainty in this particular, referreth the court to such will or the probate thereof, when produced to this honorable court.

And this defendant further answering saith, that he admitteth the intermarriage of the said complainants, as is set forth in their said bill of complaint.

And this defendant also admitteth, that at the time when the said intermarriage took place, the complainants resided in some part of Ireland, and that the said Sir Charles Morgan resided in London; but the defendant denieth that the complainant Martha Codd, was prevented from obtaining the consent of the said Sir Charles Morgan to the said marriage, by remoteness of situation, political disturbances, or by all or any of the causes which are stated in the said bill of somplaint.

And this defendant further answering saith, that he hath received a letter from the said Sir Charles Morgan, dated Grafton street, 31st of December, 1799, in which the said Sir Charles Morgan thus writes to this defendant:

"Your sister is most probably before this time arrived in New York, and you will have seen her I hope, in good health. Her marriage to Mr. Codd had actually taken place in Ireland, and the marriage articles had of course been executed there, by which her property was transferred to Sir Simon Bradstreet in trust, before I received any intimation of an attachment between the parties, so that I had nothing to do with the business whatever. I have never seen Mr. Codd, nor am I acquainted with his connexions, but I hear him well spoken of, and I sincerely wish the union may prove happy."

And also another letter, dated Grafton street, 15th of April, 1800, in which the said Sir Charles Morgan writes thus to this defendant:

"I certainly shall not go before the lord mayor to make any oath upon the business. But the fact is, as I have already stated it to be, that the marriage was contracted and solemnized before I had any intimation of the attachment, and therefore could not at that time either assent or dissent thereto; but having afterwards heard a good character of the young gentleman of whom your sister has made choice, altho' it was not perhaps a measure which I should have advised, I have ratified the same as far as depends from me, by declaring my assent thereto."

And this defendant further answering saith, that he admitteth that the said Martha Codd hath attained the age of twenty-one years, as in the said bill of complaint is set forth

And this defendant further answering denieth, that he ever told the said Edward Goold that the property in his hands, of the estate of the said Elizabeth Livius, deceased, belonged to the complainant Martha Codd.

SAMUEL BRADSTREET.
ROBERT TROUP,
Solr. for def't.
THEODS. V. W. GRAHAM,
Of counsel for def't.

Sworn before me, this 13 Feb'y 1802,
JAMES M. HUGHES,
Master in Ch'y.

[ENDORSED.]

"Filed 15th Feb'y, 1802; T. SMITH, *Clk.*"

All which we have caused by these presents to be exemplified, and the seal of our said court of chancery to be hereunto affixed.

Witness Samuel Jones, chancellor of our said State, at the city of New York, the twenty-first day of November, in the year of our Lord one thousand eight hundred and twenty-seven, and of the independence of the United States of America, the fifty-second.

JOHN L. LAWRENCE,
Assistant Register.

I, Samuel Jones, chancellor of the State of New York, do hereby certify, that the seal affixed to the preceding exemplification, is a true impression of the seal of the court of chancery of said State; that John L. Lawrence, whose name is subscribed to the attestation of the said exemplification, is the assistant register of said court; and that the said attestation is in due form.

S. JONES

Dated Albany, 14th January, 1828.

SCHEDULE S.

"This indenture made the twenty-second day of October, in the year of our Lord one thousand eight hundred and four between Edward Goold of the city of New York merchant of the first part, and Martha Codd late Martha Bradstreet wife of Matthew Codd of Utica in the county of Oneida and State of New York of the second part. *Whereas* Philip Schuyler of the county of Albany in the State of New York Esquire, executor of the last will and testament of John Bradstreet deceased by two certain indentures of release bearing date respectively the sixteenth day of May in the year of our Lord one thousand seven hundred and ninety-four, and made by and between the said Philip Schuyler executor as aforesaid of the first part, and Agatha

Evans then of the city of New York in the State aforesaid widow one of the daughters of the said John Bradstreet deceased, and the said Edward Goold of the said city of New York merchant, attorney to Sir Charles Goold Knight the only executor of the last will and testament of Martha Bradstreet deceased another daughter of the said John Bradstreet of the other part, in order as well to invest the said Agatha Evans with a legal title to her proportion of the lands and tenements devised to her by virtue of the will of the said John Bradstreet and Martha Bradstreet hereinafter mentioned as to convey the rest and residue of the lands and tenements devised thereby, to the said Edward Goold in trust for the several persons who might be entitled to the benefit thereof under the will of the said Martha Bradstreet, did grant, bargain, sell, alien, release and confirm unto the said Agatha Evans and Edward Goold and to their heirs and assigns forever, the several lots, pieces or parcels, and undivided parts of land particularly described and mentioned in the said indenture of release, to be had and holden unto the said Agatha Evans and Edward Goold their heirs and assigns forever in manner following that is to say, two equal undivided third parts of the said premises, unto the said Agatha Evans her heirs and assigns to her and their only proper use and behoof forever, and the remaining equal undivided third part thereof unto the said Edward Goold his heirs and assigns forever, upon the following trusts, that is to say, to sell the same from time to time as might be most expedient, and every or any parcel thereof and after deducting the charges of sale and other contingent expenses attending the said trust to divide the residue of the money to arise from such sales to and among Samuel Bradstreet and Martha Bradstreet party of the second part to these presents, and Elizabeth Livius lately deceased being devisees named in the said will of the said Martha Bradstreet, and their heirs, executors and administrators according to their several interests in the estate of the said Martha Bradstreet by virtue of her said will or to such persons as would be entitled thereto upon the happening of any of the contingencies in the said will mentioned affecting in any wise their proportions of the same estate. *And whereas* the said Martha Codd party of the second part to these presents, late Martha Bradstreet by virtue of the last will and testament of the said Elizabeth Livius deceased hath since the execution of the said indentures of release by the said Philip Schuyler as aforesaid, become entitled to all the estate, right and interest of the said Elizabeth Livius in the premises above referred to and released and conveyed by the said last mentioned indentures of release to the said Edward Goold in trust as aforesaid not sold and converted into money according to the said trust: *And whereas* the said Edward Goold hath lately become a bankrupt, and was duly according to the late act of the Congress of the United States declared a bankrupt and a certificate of discharge hath in due form of law been obtained by him. *And whereas* by a decretal order of the court of chancery of the State of New York made on the seventeenth day of May one thousand eight hundred and three in a certain cause depending in the said court between Matthew Codd and

the said Martha his wife complainants, and the said Edward Goold and Samuel Bradstreet defendants, it was among other things ordered, adjudged and decreed by the said court that the said Edward Goold should transfer and convey to the said Martha Codd all the real estate vested in him the said Edward Goold as aforesaid as trustee as aforesaid of the above named Elizabeth Livius, but that nothing in the said decree contained, should make the said Edward Goold personally responsible for any of the said trust property which may have been converted into money, and for which he would have been liable if he had not become a bankrupt, and obtained a certificate of discharge. *And whereas*, the said Edward Goold is willing also to convey to the said Martha Codd such proportion of the real estate mentioned in the said indentures as by virtue of them she may be entitled to under the will of the said Martha Bradstreet, and the said Edward Goold being also willing to convey to the said Martha Codd all the real estate vested in him as aforesaid as trustee for her the said Martha Codd. Now therefore this indenture witnesseth that the said Edward Goold in consideration of the premises, and in pursuance of the said order and decree of the said court of chancery, and also in consideration of the sum of one dollar to him paid by the said Martha Codd at the time of the execution of these presents, the receipt whereof the said Edward Goold doth hereby acknowledge, hath granted, bargained, sold, released, conveyed and confirmed, and by these presents doth grant, bargain, sell, release, convey and confirm unto the said Martha Codd and to her heirs and assigns forever all the real estate held by him, at the time of his becoming a bankrupt as aforesaid, as trustee as aforesaid for the said Elizabeth Livius by virtue of the several indentures of release executed by the said Philip Schuyler as aforesaid and the several wills therein referred to, and also all the real estate held by him the said Edward Goold at the time of his becoming a bankrupt as aforesaid, as trustee for the said Martha Codd, by virtue of the said several indentures and wills last above referred to, to have and to hold unto the her said Martha Codd, her heirs and assigns, to the only proper use, benefit and behoof of her the said Martha Codd her heirs and assigns forever; and the said Edward Goold for himself his heirs, executors and administrators, doth hereby covenant to and with the said Martha Codd her heirs and assigns that he the said Edward Goold hath not done suffered or permitted any act matter or thing whereby the title to the premises hereby released or to any part or parts thereof hath been or may be defeated, or in any manner incumbered, injured or impaired, and that he and his heirs will at all reasonable times hereafter, upon the request of the said Martha Codd her heirs and assigns and at their expense and costs, do suffer and execute such other and further acts, conveyances and assurances in the law for the better and more completely vesting the title to the premises hereby released in her the said Martha Codd her heirs and assigns, as by her or their counsel learned in the law shall be advised devised or required, provided however that such assurances shall not contain any covenants on the part of the said Edward Goold or his heirs by which he or they may be

made answerable or liable for any act or acts in respect to the premises herein before released or any part or parts thereof other than those by him or them done or suffered since his bankruptcy. In witness whereof the said parties to these presents have hereunto interchangeably set their hands and seals the day and year first above written.

EDWARD GOOLD, [L. S.]

THOMAS COOPER.

State of New York, ss. On the 25th of October 1804 before me came Edward Goold known to me to be the grantor described in and who has executed the within deed, who did acknowledge that he had executed the same. I allow it to be recorded.

THOMAS COOPER,
Master in Chancery.

STATE OF NEW YORK, *Secretary's Office.*

Recorded in Lib: Deeds endorsed M. R. O. page 283 &c. the 5th day of November at 10 o'clock, A. M.
1804. TH. TILLOTSON, *Sec'ry.*

SCHEDULE T.

"This is the last will and testament of John Bradstreet, Major General in his Majesty's army, as follows: I revoke all former wills and testaments. I appoint Col. Philip Schuyler to take all my books and papers, and to settle and transmit my public accounts to Charles Gould Esq. of London, and I discharge the said Col. Schuyler from all demands and debts except one thousand pounds currency, which shall be paid to Elizabeth Bradstreet, daughter to my wife. I devise the farm, which I have a lease of in fee, and which is now possessed by Tony Cliff, to John Bradstreet Schuyler, son of the said Col. Schuyler, and to his heirs and assigns forever; together with my arms, books, and apparel. I give all my charriages, horses, and tackle to Mrs. Schuyler, wife of the said Col. Philip Schuyler; the money due to me from Parson Johnson, of Corry's Bush, by bond, I give to his daughter, Margaret Schuyler. All the rest of my estate, real and personal, I devise and bequeath to my two daughters, equally to be devided between them, as tenants in common in fee. But I charge the same with the payment of one hundred pounds sterling per annum, to their mother during her life. Notwithstanding the former devise for the benefit of my wife and daughters, I empower my executors to do all acts and execute all instruments which they may conceive to be requisite to the partition of my landed estate, and I devise the same to them as jointenants, to be by them sold at such time and in such manner as they shall think most for the interest of my daughters, to whom the nett produce shall be paid in equal shares, the sum of one hundred pounds sterling per annum being first deducted, or a capital to secure the same set apart for an annuity to my wife, as aforesaid. I order that Doctor Bruce have one hundred pounds for his trouble and for his kindness to me; my watch I give to Mr. Gould as a mark of my friendship. I leave funeral expenses to the discretion of my executors; and I appoint for the execution of this my last will the said Col. Philip

Schuyler, and William Smith, Esq. New York, who penned this will according to my dictate, while much indisposed, but in the enjoyment of my usal share of understanding.

In testimony whereof, I have hereunto set my hand and seal, this twenty-third day of September, 1774.

JNO. BRADSTREET. [L. S.]

Signed, *signed*, sealed, and published by General Bradstreet, the testator, as his last will and testament, and by us subscribed as witnesses thereto, in his presence and at his request, the word (in fee) and the words (for his) first interlined, and the legacy of fifty changed to one hundred before attesting.

ADAM GILCHRIST.
WILL'M I. ALLMON.
FRANCIS GRANT."

SCHEDULE U.

In the name of God, amen. I John Bradstreet, Esquire, Lieutenant Governor of his majesty's garrison of St. Johns, in Newfoundland, being in good health, and of sound mind and understanding, (praised be God for this same) but sensible of the certainty of death, and the many accidents to which human nature is daily liable, do hereby declare my will and testament in manner following: That is to say, I do give and bequeath unto my two executors hereafter named, all such monies in England after payment of my funeral expenses and debts (if any there shall be) as shall belong to me at the time of my death, in whose hands soever the same shall be, or which shall be then due to me and can be legally obtained, as also all monies which shall by any means come to their hands, or either of them, whether remitted to them from any foreign part or otherwise, to be by them invested in such of the public funds as they shall judge most convenient, in their own names or name of one of them, in trust and for the use of my dear wife, Mary Bradstreet, and my two daughters, Agatha and Martha Bradstreet, equally between them share and share alike; and the interest arising therefrom to be from time to time paid to them respectively, so long as my said wife shall remain single and unmarried. But in case of her death or second marriage then her third share and all right to the same shall go be and anure to the use of my said two daughters, equally between them. And in case either of my said daughters shall die before her having obtained the age of twenty-one years and unmarried, then her share shall go to the surviving sister. And all other my estate, real and personal, of which I shall die possessed, and to and in which I shall at the time of my decease have any right, title, or interest, whatsoever, I do hereby give and devise to my said wife and daughters, in three equal parts to be divided; the whole, nevertheless, upon the death of my wife, or in case she shall marry again, to go to my daughters in equal moietys. And I do hereby nominate and appoint William Baker, Esquire, alderman of the city of London, and Charles Gould, of Privy Garden, Westminister, Esquire, executors of this my last will and

testament, and in case of the death of either of them, then the survivor of them to be my sole executor. And I do hereby desire them to accept of the trust hereby reposed in them.

In witness whereof, I have hereunto set my hand and seal, the tenth day of November, in the year of our Lord one thousand seven hundred and fifty-four.

JNO. BRADSTREET. [SEAL.[

Signed, sealed, and published by the testator, as and for his last will and testament, before us, who have hereunto subscibed our names as witnesses, in the testator's presence and at his request.

RD. TYRRELL,
AMBROSE KELLY,
WILL'M GRIFFIN.

Exd. Extracted by
MICHL. FOUNTAIN,
Proctor at Doctor's Commons.

SUPREME COURT OF THE UNITED STATES.

MARTHA BRADSTREET, demandant,
vs.
ANSON THOMAS, tenant.
} In Error.

Of the term of January, in the year of our Lord one thousand eight hundred and thirty-seven.

Afterwards, to wit, on the second Monday of January, in this same term, before the Supreme Court of the United States, comes the said Martha Bradstreet by John L. Tillinghast, her attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that the pleas aforesaid, and the matters therein contained, are not sufficient in law to bar or preclude the said Martha Bradstreet from having and maintaining her aforesaid action, thereof, against the said Anson Thomas.

There is also error in this, to wit, that by the record aforesaid, it appears that the judgment aforesaid in form aforesaid given, was given for the said Anson Thomas against the said Martha Bradstreet; whereas, by the law of the land, the said judgment ought to have been given for the said Martha Bradstreet against the said Anson Thomas.

And the said Martha Bradstreet prays, that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing; and that she may be restored to all things which she hath lost by occasion of the said judgment.

JOHN L. TILLINGHAST,
Attorney and of counsel for demandant.

[ENDORSED.]

SUPREME COURT OF THE UNITED STATES.

Martha Bradstreet, demandant, *vs.* Anson Thomas, tenant—Assignment of errors.

JOHN L. TILLINGHAST,
Attorney.

Received this 28th day of November, 1837.

ANSON LITTLE,
Clerk of the Northern District of New York.

Filed Nov. 28, 1837.

SUPREME COURT OF THE UNITED STATES.

MARTHA BRADSTREET, demandant,
vs.
ANSON THOMAS, tenant,

UNITED STATES OF AMERICA,
Northern district of New York, ss.

Martha Bradstreet being duly sworn, deposes and says, that she did, on the twenty-eighth day of November instant, lodge a copy of the writ of error, in this cause, in the office of the clerk of the district court of the United States of America for the northern district of New York, for the said Anson Thomas (the tenant in this suit) and further says not.

MARTHA BRADSTREET.

Subscribed and sworn to, this 28th day of November, A. D. 1837, before me,

ANSON LITTLE,
Clerk, and comm'r to take affi's in the dist. court of the U. S. for the northern dist. of N. York.

SUPREME COURT OF THE UNITED STATES.

MARTHA BRADSTREET, demandant,
vs.
ANSON THOMAS, tenant,

Afft. of lodg't of writ of error.

JOHN L. TILLINGHAST,
Att'y.